

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN

05 CV 0447 Sc

JAMES M. WEST, ABDUL M. SHARIFE, AND DIVINE C. X

ALLAH, on behalf of themselves and all :  
other persons similarly situated, :

Plaintiff, :

- against - :

GLENN S. GOORD, Commissioner of the New York :  
State Department of Correctional Services; :  
STEPHAN BERNARDI, Deputy Commissioner, of :  
Policy & Compliance, of the New York State :  
Department of Correctional Services; THOMAS :  
M. POOLE, Superintendent of Five Points, of :  
the New York State Department of Correctional :  
Services; THOMAS EAGEN, Director of the N.Y.S. :  
Inmate Grievance Program, of the New York :  
State Department of Correctional Services; :  
Jane Doe # 1 (DENNIS/DENIS) (Phonetics), the :  
Regional Grievance Supervisor of Five Points, :  
of the New York State Department of Correct- :  
ional Services; JANICE E. HENRICH, Inmate :  
Grievance Program Supervisor at Five Points, :  
of the New York State Department of Correct- :  
ional Services; LISA LAUBER, Corr. Officer & :  
IGRC STAFF REPRESENTATIVE of Five Points, of :  
the New York State Department of Correctional :  
Services; JOHN DOE 1 - 9 IGRC SGT./STAFF REP- :  
REPRESENTATIVES of Five Points, of the New York :  
State Department of Correctional Services; :  
DAVID F. NAPOLI, Deputy Supt. of Security, :  
of Five Points, of the N. Y.S. Department of :  
Correctional Services; DONALD SELSKY, Direct- :  
or of Special Housing & Disciplinary Appeals, :  
of the New York State Department of Correct- :  
ional Services, individually, personally and :  
in their Official Capacities, and their Succe- :  
ssors in Office, :

Defendants. :

TO THE DEFENDANT(S) :

PLEASE TAKE NOTICE, UPON ALL PAPERS FILED WITH THIS COURT BY THE  
PLAINTIFF'S IN THE ABOVE-CAPTIONED CIVIL ACTION WILL MOVE THIS COURT  
FOR AN ORDER THAT THIS CIVIL ACTION BE BROUGHT AS A "CLASS ACTION" AN  
MAINTAINED AS SUCH ON THE ALLEGATIONS ALLEGED IN THIS CIVIL COMPLAINT.

## I. INTRODUCTION

1. This is a Civil Action by the Plaintiffs' against Defendants seeking redress under 42 U.S.C. § 1983 (Civil Action For Deprivation Of Rights); 42 U.S.C. § 1985 (3) (DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES); and 42 U.S.C. §1986 (ACTION FOR NEGLIGENCE TO PREVENT), including equitable relief, injunctive relief and monetary damages, for violation of their rights, under the "AMERICANS WITH DISABILITY ACT/REHABILITATION ACT", as disabled individuals who are confined at Five Points Correctional Facility, and on behalf of themselves and all other persons who are similarly situated. This complaint relates to inmates who are wheelchair, paraplegic, quadriplegic, or otherwise not able to walk, and those who are able to walk, are part of the class. This complaint relates to prisoners who are wheelchair bound but able to walk on crutches or with some assistance.

2. Plaintiff's informs the Court that as a result of the 1971 "Attica Prison Riot" the N.Y. State Department of Correctional Services Commissioner Oswald, under Special Commission Report, dated 1972 or 1973, to install an Inmate Liaison Committee (Hereafter "I.L.C.") (Directive # 4002) so that prisoners will have the outlet to inform the facility' Prison Administration of matters concerning the General Population's welfare. The second program that was instituted was the Inmate Grievance Resolution Committee (Hereinafter "I.G.R.C.") (Directive # 4040, date June 8, 1998, superseded by, Directive # 4040, dated August 22, 2003, pursuant to New York Corrections Law, § 139 (9 N.Y.C.R.R. Part 7695). It is when the two programs fail or are undermined by the Commissioner and his designate, Director of the Grievance Program, the C.O.R.C., Regional Grievance Supervisors, Inmate Grievance Program Supervisor, Superintendent, I.G.R.C. Sargeants, Guard, and those who are not fully known will be than added pursuant to Rule 15(c) of the Relation Back Doctrine as defendants for this Civil Action, for the Deprivation Of Liberty Without Due Process Of Law in a number of respects: Defendants' arbitrary actions constituted punishment in violation of protected conduct, nor a fair and impartial adjudication of grievance procedures by a concerted and systematic effort to deprive plaintiff's a liberty interest without due process of law. The Plaintiff's will show the Court, that Plaintiffs' have tried to rectify the problems at Five Points through the I.G.R.C. and the I.L.C.. But, every step has been undermined. This is when the Federal Court should

intervene under 42 U.S.C. §§ 1983, 1985(3), 1986, the ADA ACT / REHAB. ACT of 1973, and Title VII (JOB DISCRIMINATION / HOSTILE WORKING ENVIRONMENT).

3. Plaintiff's contend that state law created liberty interests that are entitled to the procedural protections of the due process clause. Because Statutes are a common state law basis for the constitutional claim of due process entitlement. That, defendants knew or than should have reasonable known that N.Y. judicial decision, administrative regulations and departmental directive grant prisoners liberty interest in receiving fair and impartial grievance hearings without fraud or/and fraudulent concealment of actual facts with fair investigations.

4. Defendants' Glenn S. Goord, Central Office Review Committee (Hereinafter: C.O.R.C.), Thomas Eagen, Regional Grievance Supervisors, Inmate Grievance Program Supervisor's (Persons Illegally Acting In Said Capacity as a ACTING FACILITY GRIEVANCE SUPERVISOR), failed to adopt or adhere to Administrative Grievance Procedure under 42 U.S.C. § 1997e and their own N.Y. State Department of Correctional Services Employee's Manual by their deliberate indifference and gross negligence in the running of an corrupt and illegally run Inmate Grievance Program at Five Points Correctional Facility since the inception of its opening, inwhich includes all Inmate Grievance Resolution Committee Sargeants at Five Points Correctional Facility.

5. That, Defendant's Goord, CORC, T. Eagen, and all other named or titled failed to properly train, properly supervise, improperly selected or / and hired Docs employee's who were assigned to work in I.G.R.C. Office at Five Points, who have poor impulse control and did retaliate against Plaintiff Inmate Grievance Representatives and other other inmate grievant's from receiving due process within the Inmate Greivance Process in violation of 42 U.S.C. § 1997d.

6. Plaintiff's were discriminated against by defendants inwhich Defendants and their agents and employee's falsified official Departmental records and obfuscated due process within the grievance mechanism at Five Points with deliberate indifference with gross negligence.

7. Defendants Henrich Janice E. Henrich, Lisa Lauber and I.G.R.C. Sargeants undermined Plaintiff who were Inmate Grievance Representatives wherein they were coerced to do DOCS I.G.R.C. Staff's work that was contrary to defendants 1998 and 2003 Directive # 4040 and the I.G.R.C. TRAINING MANUAL and created a Hostile Working Environment in violation by harassment and discrimination in the working place which was condoned by all superiors by their failure to take corrective, remedial and disciplinary action by their inaction, joined in the acts

complained of herein, which by their inaction of the superior's were actually stating that whatever their subordinates do is alright with them.

## II. PRELIMINARY STATEMENT

8. The named Plaintiffs are disabled inmates confined to wheel chairs in the custody of the New York State Department of Correctional Services (hereinafter:"DOCS") and incarcerated at the Five Points Correctional Facility ("Five Points") in Romulus, New York. The named Plaintiffs represent a class of present and future inmates of the Five Points Correctional Facility who are handicapped by virtue of being wheelchair bound, paraplegic, quadriplegic, or otherwise not able to walk ("non-ambulatory inmates"). This complaint does relate to inmates who are ambulatory and inmates who are wheelchair bound but able to walk on crutches or with some assistance into their cells, and those who are not handicapped as part of the class to this action.

9. The named Plaintiffs bring this action on behalf of themselves and all other similarly situated non-ambulatory inmates and inmates who are fully ambulatory.

10. The named plaintiffs that bring this action are being, have been, and / or will be further discriminated against solely on the basis of their disabilities in receiving rights and privileges accorded to all other inmates (the "Class", and the members thereof the "Class-Members").

11. The named Plaintiffs bring this action on behalf of all other similarly situated but not wheelchair-bound, paraplegic, Quadriplegic, or otherwise not able to walk on crutches or with some assistance into their cells. But persons who are fully able to ambulate without any type of handicap, disability, et cetera.

12. This civil action by the plaintiff's applies to some plaintiffs who meet the qualifications of the American's with Disabilities Act as to separate Cause's of Action, named as the leading plaintiffs who are wheel-chair bound with medical conditions recognized by the ADA ACT.

13. The named Plaintiffs seek a judgment on behalf of themselves and the Class, and ask this Court to declare that Defendants' failure to provide Plaintiffs with Due Process and Equal Protection of the Law within the Inmate Grievance Program by running corrupt and illegally run grievance program at Five Points Correctional Facility.

14. Plaintiffs claim that the failure of the Defendants' to provide plaintiffs with Due Process and Equal Protection of the Laws that are well established under State and Federal Law violates the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12133 ("ADA"), and the regulations promulgated under the statutes. In addition, Defendants in failing to provide a Grievance Program at Five Points Correctional Facility that meet their own Directives, N.Y. Corrections Law, and 42 U.S.C. § 1997e, subd. (a), (b) and 42 U.S.C. § 1997d. Prohibition of retaliation violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution, U.S. Const. amend XIV, § 1 , 42 U.S.C. §§ 1983, 1985, subd. 3, 1986.

### III. PARTIES

15. Plaintiff JAMES MICHAEL WESS a/k/a JAMES WESS, is a resident of New York State who is incarcerated at Five Points Correctional Facility in general population. Plaintiff is a non-ambulatory inmate. Plaintiff WESS is a "qualified individual with a disability" under the ADA, 42 U.S.C. § 12102(2), and regulations promulgated thereunder, 28 C.F.R. Part 35. Plaintiff WEST is also as a "handicapped person" under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and regulations promulgated thereunder, 28 C.F.R. § 42.503.

16. Plaintiff ABDUL MUHAMMAD SHARIFF IS A RESIDENT OF New York State who is incarcerated at Five Points Correctional facility in general population. Plaintiff is a non-ambulatory inmate. Plaintiff is a "qualified individual with a disability" under the ADA, 42 U.S.C. § 12102(2), and regulations promulgated thereunder, 28 C.F.R. Part 35. The Plaintiff is also qualified as a "handicapped person" under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and regulations promulgated thereunder, 28 C.F.R. § 42.503.

17. Plaintiff DIVINE C. ALLAH is a resident of New York State who is incarcerated at Five Points Correctional facility in general population. Plaintiff is a non-ambulatory inmate. Plaintiff DIVINE C. ALLAH is a "qualified individual with a disability" under the ADA, 42 U.S.C. § 12102(2), and regulations promulgated thereunder, 28 C.F.R. Part 35. The Plaintiff ALLAH is also qualified as a "handicapped person" under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and regulations therein promulgated thereunder, 28 C.F.R. § 42.503.

IV. DEFENDANTS

18. Defendant GLENN S. GOORD is and was at all relevant times the Commissioner of the New York State Department of Correctional Services and as such is Chief Executive Officer of the Department. He is and was responsible for the appointment, administration and supervision of his subordinates. Defendant GOORD was appointed by Governor George Pataki with the advice and consent of the New York Senate, and holds office at the pleasure of the Governor. N.Y. Corrections Law § 5, subd. (1), and (2). Defendant GOORD is legally responsible for the implementation of the Inmate Grievance Resolution Committee (Hereinafter: "I.G.R.C.") under New York Corrections Law § 139, and its subdivisions. He is also responsible for adherence to the Department of Correctional Services Employee's Manual. . Including, but not limited to the adherence to the welfare, care, safety, ADA ACT standards and 42 U.S.C. § 1997e/

19. DEFENDANT STEPHAN BERNARDI is and was at all relevant times Deputy Commissioner of Policy & Compliance, of the New York State Dept. of Correctional Services. Defendant BERNARDI was appointed to his job description by the Defendant GOORD pursuant to New York Corrections Law § 7. Organization of Department of Correctional Services; Officers and Employees; delegation by Commissioner, pursuant to subdivisions 2 and 3 of this section. Defendant BERNARDI as such is designated to be responsible for compliance of Policy & Procedure Compliance and for the Compliance of DOCS Directives. But, not limited to this. He is legally responsible for the welfare, care, safety, ADA ACT adherence and the lawful comportment in is capacity.

20. Defendant THOMAS M. POOLE is and was at all relevant times Superintendent at Five Points Correctional Facility. Defendant POOLE is charged is charged with the supervision, management, and control of Five Points, including the preservation, promotion, and maintenance of the rights and safety of all individuals incarcerated at Five Points, including the welfare, care on non-ambulatory and ambulatory inmates at Five Points. Defendant POOLE is appointed pursuant to § 18 of the New York Corrections Law, subdivision (1), (2), and (3). Upon information and belief, Defendant POOLE is responsible under the law to provide a safe, secure and discrimination-free environment for all individuals confined within Five Points.

21. Defendant THOMAS EAGEN is and was at all relevant times the

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21. Defendant THOMAS EAGEN is and was at all relevant times the

Director of the INMATE GRIEVANCE RESOLUTION COMMITTEE" for the New York State Department of Correctional Services, State Office Building Campus, 1220 Washington Avenue, Albany, New York 12226. Which is the Central Office for the "DOCS". Defendant has been assigned or / and designated by the Defendant Glenn S. Goord as Director of the whole Grievance Program throughout the State, pursuant to New York Correction Law § 7, subdivision 2. Defendant is responsible for the orderly running of the Inmate Grievance Program at each Correctional in a impartial manner, which lawfully comports to well established law without any bias, discrimination, retaliation, revenge, reprisal, harassment, and improper grievance procedures without due process. Defendant is responsible for safety, welfare, care, and management of the grievance program within 42 U.S.C. § 1997e and all applicable statutes, obligations under law.

22. DEFENDANT JANE DOE # 1 ( DENNIS /DENIS), regional Grievance Supervisor, of the New York State Department of Correctional Services, and the Five Points Correctional facility, at all relevant times. Upon information and belief, Defendant Jane Doe # 1, is charged with obligations, under the, for perserving, mainting and promoting the rights and privileges with immunities within the "INMATE GRIEVANCE RESOLUTION COMMITTEE" within the Department, pursuant to 42 U.S.C. § 1997e and other applicable statutes. Defendant is responsible for the orderly running of the Grievance Program at Five Points, the Civilian Grievance Supervisor, Inmate Grievance Representatives & Staff Representatives, and Grievance Clerk's without improper grievance procedures in violation of wel established law. Defendant is charged with the supervision, management, control, including the preservation, promotion of the rights, privileges and immunities within the grievance program at Five Points, including non-ambulatory inmates. Defendant is responsible under the law to provide a safe, secure and discrimination-free environment for all individuals confined at Five Points. Especially those without any physical handicaps, et cetera.

23. DEFENDANT JANICE E. HENRICH, Inmate Grivenace Program Supervisor, at all relevant times, for the New York State Department of Correctional Servives, assigned by the Defendant Commissioner or designate to Five Points Correctional Facility under New York Corrections Law § 7, subdivision 2. Defendant is charged with the supervision, management, and control of the Five Points Grievance Program, including the preservation, promotion, and maintenance of the rights and safety of all indiv-



iduals incarcerated at Five Points, including non - ambulatory inmates. The defendant, upon information and belief, Defendant Henrich, is responsible under the law to safe, secure and discrimination-free environment for all individuals confined at Five Points Inmate Grievance Resolution Committee.

24. DEFENDENT LISA LAUBER, at all relevant times mentioned herein, was a Correction Officer under Article 2, Section 8, of the New York Correction Law ( McKinney's ). Defendant was the Inmate Grievance Resolution Committee Officer. Defendant Lauber obtained the her position in particular by the Labor Bid. Defendant held this position at Five Points Corr. Facility.

25. DEFENDENT JOHN DOE 1 - 9 IGRC SARGEANT'S / STAFF - REPRESENTATIVE OF FIVE POINTS, at all relevant times mentioned, in the employ of the New York State Department of Correctional Services. The true names and the capacities of the defendants named herein as DOES 1-9 are not fully at this time known to the named plaintiffs. The named Plaintiffs will amend this Complaint to reflect their true names and capacities after Defendants DOES 1-9 have been ascertained. Defendants DOES 1-9, along with other Defendants, are responsible for the acts described below and are liable to the Named Plaintiffs therefor.

26. DEFENDENT DAVID F. NAPOLI (DAVID NAPOLI), Deputy Superintendent of Sercurity, at Five Points Correctional Facility, which appointed to the present position by Defendant Commissioner of Correctional Services, at all times relevant to this Complaint. Defendant Napoli was the Tier 3 Hearing Officer for a Plaintiffs Impeachment Hearing at Five Points.

27. DEFENDENT DONALD SELSKY, at all times relevant, was the DIRECTOR of SPECIAL HOUSING & DISCIPLINARY APPEALS ADJUDICATION, of the New York State Department of Correctional Services, principal office in Albany, New York. Defendant was appointed by the Commissioner of Correctional Services to his current position of work and duties, pursuant to the New York State Corrections Law.

28. All the Defendants are sued in their official capacities, individual capacities, and personal capacities. They are charged with acting under color of State Law in the Complaint.

29. The Defendants acted in bad faith at all times mentioned in the Complaint.

Case 1:05-cv-00447-FPG-HBS Document 1 Filed 06/21/05 Page 10 of 62  
29 Defendant State of New York is sued as the entity responsible for organizing and authorizing Five Points to conduct its affairs under the laws of the State of New York.

30. Defendant State of New York could be added as a defendant and sued as the entity responsible for organizing and authorizing Five Points to conduct its affairs under the laws of the State of New York pursuant to Rule 15(c) of the Relation Back Doctrine, 28 United States Code Ann.

31. That, Plaintiff puts defendants' and their attorneys on NOTICE that other employee's stationed at Five Points will be added to this complaint as they become known, in which they will not be prejudiced the notice being provided. Such as wives of defendants who acted in concert, and / or conspiracy. As well as counselors, maintenance personnel, Deputy Superintendents, Captains, Lieutenants's and Sergeants, and the CORC, etc.

#### JURISDICTION AND VENUE

32. The jurisdiction of this Court is based on 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3) and (4).

33. Venue in this Court is proper under 28 U.S.C. § 1391(b).

#### FACTS

THE INMATE GRIEVANCE PROGRAM DIRECTIVE #4040 dated 6/8/98 and the DIRECTIVE #4040 dated Aug. 22, 2003.

34. Five Points is a prison within the New York State Department of Correctional Services, system, and is located in Romulus, New York, Seneca County. Upon information and belief, Five Points Correctional Facility receives Federal Financial Funding Assistance.

35. Five Points Failure to follow or adhere to the administrative grievance procedures pursuant to Departments of Correctional Services Employee's Manual, Section 2.2 LAWFUL COMPORTMENT. An employee shall not knowingly or willingly violate any law or ordinance of the United States or the State of New York or any rule, regulation, or directive of the Department.

36. That, Defendants Goord, Bernardi, Poole, Eagen, Jane Doe #1 Regional Grievance Supervisor, Henrich, L. Lauber, John Doe 1-9 IGRC SGT. / Staff Representatives, and all others not fully known who will be added as defendants under the "RELATION BACK DOCTRINE" failed to by deliberate indifference and gross negligence to LAWFULL COMPORTMENT to Section 2.2 of the DOCS Employee's Manual.

37. All the defendants condoned the Falsification of Records of the Inmate Grievance Program at Five Points by their inaction to take corrective, remedial, disciplinary and administrative action.

38. Defendants Goord, C.O.R.C., Stephan Bernardi, Thomas Eagen, Jane Doe1(Dennis/Denis) Regional Grievance Supervisor and Thomas M. Poole by their deliberate indifference and gross negligence failed and improperly trained, improperly supervised, and improperly selected Janice Henrich as Grievance Supervisor, Lisa Lauber as I.G.R.C. Officer and John Doe 1-9 I.G.R.C. Sgt.'s (Staff) for the Inmate Grievance Resolution Committee at Five Points Correctional facility.

39. Defendants Henrich, Lisa Lauber, John Doe 1-9 I.G.R.C. Sgt.'s have poor impulse control and prior mental disease and defect as to a psychological and psychiatric problems and / or history.

40. Defendants Goord, C.O.R.C., Thomas Eagen, New York State Commission of Correction, Governor George Pataki, Thomas Poole, Jane Doe1(Dennis/Denis Regional Grievance Supervisor, Janice Henrich, John Doe 1-9 I.G.R.C. STAFF SGT.'S and Correction Officer Lisa Lauber as I.G.R.C. Officer's and other officer's ran a illegally and corrupt Inmate Grievance Program with a meeting of the minds, collusion and / or conspiracy that has gone unchecked for year's without corrective action, remedial action, disciplinary action, nor administrative action by superior's who were put on NOTICE and joined into the conduct, behavior and actions complained of by their inaction.

41. Plaintiff James Michael West 89-A-6906 filed grievances of a Corrupt Grievance Program inwhich was illegally run with improper procedures listed herein:

1. INADEQUATE GRIEVANCE PROGRAM, 5/16/02 / FPT-5067;
2. I.G.R.C. FRAUDULENT PROCEDURES, 5/29/02 / FPT-5147;
3. I.G.R.C. NOT FOLLOWING DIRECTIVE 4040, 9/13/02 / FPT-5844 & FPT-5955, 9/25/02;
4. Five Points Correctional Facility Running False I.G.R.C. Program, 10/17/02, FPT-6036;
5. Inmate Grievance Program Supervisor Lied, 10/17/02, FPT-6039;
6. I.G.R.C. Bogus Operation, 11/4/02, FPT-6150;
7. I.G.R.C. Election Procedures Not Followed, 12/30/02, FPT-4585;
8. Failed to utilize Alternate IGRC REP. at Hearing, 12/30/03, FPT-6586;
9. New IGRC Election, 12/31/02, FPT-6621;
10. Corrupt I.G.R.C., 1/6/03, FPT-6668;
11. Denied To Be Called AsAlternate IGRC REP., 1/15/ 03;
12. I.G.R.C. Illegal Ballot Count, 1/29/03, FPT-6878

13. Failure to Utilize Alternate Grievance Representative at IGRC HEARING, FPT-6587;
14. Retaliation For Filing Grievances, FPT-6391, 12/5/02;
15. Permit Me To Do My Job, FPT-8058;
16. FPT-8099, 7/11/03;
17. DOCS Violates Rights, FPT-8283;
18. IGRC Illegal Ballot Count, FPT-6878, 1/29/03
19. C.O. Retaliation for Filing grievances, FPT-6100;
20. Illegal Selection of IGRC Chairman By Inmate Grievance Supervisor, FPT-\_\_\_\_\_;
21. Want New I.G.R.C. ELECTION, FPT-6621, 12/31/02;
22. Election Procedures Not Followed, FPT-6585, 12/30/02;
23. That there are more grievances on corrupt, illegal, improper grievance procedures, conspiracy in undermining grievance program , concerted and systematic efforts to deny prisoner's their due process within the prison's grievance mechanism will later be added under RULE 15 (a) Amendments, Rule 15 (b)Amendments to conform to the Evidence, Rule 15 (c), Subd. (1)(2)(3) of the Relation Back of Amendments. This puts defendants and counsel on NOTICE of other DOCS Employee's will be added as defendants.

42. PLAINTIFFS JAMES M. WEST, , ,  
have exhausted all of their grievances pursuant to the applicable laws, sections, and subdivisions of the "PRISONERS LITIGATION REFORM ACT".

43. Plaintiff James M. West, contends that after the Federal Court Decision in Raymond SANTIAGO, et al., Plaintiffs, v. Ronald MILES, et al., 774 F. F. Supp. 775 (W.D.N.Y. 1991) (Hon. Larimer, U.S.D.J.), a DOCS employee at the Elmira Correctional Facility, Defendant Janice Henrich, who was the Inmate Grievance Supervisor at Five Points brought discriminatory job preferences to the Grievance Program at Five Points by which defendant practiced at Elmira Corr. Facility. The defendant Henrich was allowed to practice her racial preference of IGRC Representatives at Five Points by the defendant prison officials, Supt Poole, Aidala, Dawson Brown, former and present Regional Supervisor's, Thomas Eagen, CORC Personnel, Glenn S. Goord, State Commission of Correction, Govenor Pataki, Commission of Investigation, Inspector General's Office at State Capitol, Inspector General's of the DOCS, IGRC Sgt.'s, DOCS Employee's at Five Points Correctional Facility.

44. Defendant Janice Henrich's racial preferences for caucasion I.G.R.C. Representatives was one of racially motivated retaliation against James West, and Abdul Muhammad Shariff, in their jobs as IGRC Representatives at Five Points, *AND LATIN ONES*.

45. Plaintiff James M. West (Hereinafter "WEST") because of his prison activism on behalf of prisoner's rights was asked to run in the Inmate Grievance Resolution Committee Election in approximately Decmber 2002.

46. Plaintiff West, ran in the Election for Inmate Grievance Representative inwhich Defendant Henrich retaliated against West in the cheating West of of approximately 75 votes because some of the ballots for the Election had only West's name on them.

47. That, Plaintiff West, prior to running for election as IGRC REPRESENTATIVE had filed grievances on a corrupt, illegally run Inmate Grievance Resolution Committee Program at Five Points that used improper procedures to deny prisoners due process and equal protection of the law within the grievance mechanism at Five Points State Prison by deliberate indifference.

48. That, the fraudulent concealment tolls the Statute of Limitations on the illegal, corrupt, and false grievance procedures violate's prisoners rights at Five Points Correctional Facility to meaningfull and reasonably access to the Courts by the acts of Defendants Henrich, Supt. Poole, All of Five Points Deputy Superintendents, Jane Doe (Reg. Griev. Supvsr.), and Successor in Jane Doe's job description, Thomas Eagen, C.O. L. Lauber, prior C.O. Williams (prior IGRC Officer), C.O. Davis (prior IGRC Officer. John Doe 1-9 IGRC Sgt.'s, Stephan Bernardi and Glenn S. Goord for their deliberate indifference with gross negligence .

49. That the Commission of Investigation could become a defendant in this civil action along with the State Commission of Correction for their personal knowledge and than there inaction to take corrective action, remedial action, administrative action, and last, disciplinary action in ignoring and in furtherance of a cover-up to this day by their deliberate indifference with gross negligence against Plaintiff's West and Abdul Muhammad Shariff (Hereinafter SHARIFF).

50. Defendants Glenn S. Goord, C.O.R.C. (Deputy Commissioners), Stephan Bernardi, and Thomas Eagen were given notice for such a time and condoned a concerted and systematice efforts of denial of due process within the grievance progarm and retaliation against IGRC Repre-

sentatives by allowing subordinates to coerce IGRC Representative's whose's job are protected under "PROTECTED CONDUCT UNDER THE FIRST AND FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION", as defendant's Henrich, C.O. Lauber and IGRC Sgt.'s coerce plaintiff's to perform illegal and corrupt acts within the grievance program with fraudulent concealment from superiors by deliberate indifference.

51. Defendant Henrich and John Doe Sgt. illegally opened the election ballot envelopes out of the presence of the Inmate Liaison Committee Representatives who were supposed to count the ballots by a deliberate indifference with gross negligence.

52. Defendants Henrich and John Doe IGRC Sgt. conspired to too keep me from winning the IGRC Election by illegal means by deliberate indifference by discriminatory acts in violation of the American's with Disability Act which was racially motivated because of litigation I had against New York State Department of Correctional Services.

53. That, prior IGRC Representative Corey Lashley caught the defendant's Henrich and John Doe IGRC Sgt. illegally counting election ballots and informed the Plaintiff West, which Plaintiff West filed a grievances FPT-4585 (Election Procedures Not Followed), FPT-6878 (Illegal Ballot Count) 1/29/03, and FPT-6621, New IGRC Election), 12/31/02 by deliberate indifference.

54. Defendants Janice Henrich and John Doe IGRC Sgt (or Sgt.) did with callous recklessness, deliberate indifference, and gross negligence conspired to undermine the election at Five Points for prisoner's who were nominated for "INMATE GRIEVANCE REPRESENTATIVES" for the Inmate Grievance Resolution Committee approximately around December by their deliberate indifference, and gross negligence.

55. Pursuant to Section 1983, of 42 United States Code Annotated, all Defendants, who, under collar of state law, ordinance, regulation, custom , or usage, of the State of New York, subjects, and caused to subjected, wheelchair bound prisoners, named Plaintiffs qualifies as disabled under the Americans with Disabilities Act and the Rehabilitation Act, as citizens, within their jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and Laws deliberate indifference, and gross negligence. Also, the discriminatory treatment because of their physical handicaps.

56. That, Defendants Goord, Bernardi, Eagen, C.O.R.C., Regional Grievance Supervisors Jan Doe (Denis/Dennis) (and Successor in title),

T. Poole, All Deputy Supt.'s at Five Points, condoned the violation Section 138, subd. 4, which states:

"Inmates shall not be disciplined for making written or oral statements, demands, or requests involving a change of institutional conditions, policies, rules, regulations, or laws affecting a institution."

and failed to properly train, properly supervise, and improperly selected Janice Henrich as a Inmate Grievance Supervisor, Guard Lisa Lauber as a IGRC Staff Office, and John Doe 1-9 IGRC Staff Sgt.'s by their deliberate indifference, and gross negligence, inwhich all three defendants had poor impulse control and mental disease and defect.

57. After filing numerous grievances on a corrupt, illegal Inmate Grievance Program at Five Points, which utilized improper grievance procedures with deliberate indifference , and gross negligence, the ran in another election to the Inmate Grievance Resolution Committee at Five Points to make them legally conform to DOCS Director # 4040, IGRC Training Manual, State and Federal Law, pursuant to Section 2.2 Lawful Comportment, of the Department Of Correctional services, Employee's Manual.

58. Approximately, on June 23rd, 2003, Plaintiff's James M. West and Abdul Muhammad Shariff, wheelchair bound and disabled prisoners began working in the Inmate Grievance Office at Five Points.

59. Upon Plaintiff's West and Shariff starting working in the Inmate Grievance Office at Five Points there existed illegal and corrupt grievance procedures in the processing, miscoding grievances, and the use of clerk's to illegally perform functions of the Inmate Grievance Representatives, back log of grievances, grievance decisions over due, denial of SHU prisoners full grievance hearings, by Guard Lauber, IGRC Staff Sgt., and Janice Henrich by deleiberate indifference, with gross negligence, was a pervasive policy practice, custom and usage existing to date. Also, that investigations were falsified by DOCS Employee's whereb they were cover-up, and the Inmate Grievance Program was undermined by the Prison Officials defendant' (Supt. and staff) which denied prisoners their First Amendment and Fourteenth Amendment rights to the United States Constitution and the Prisoner Litigation Reform Act.

60. Plaintiff's West and Shariff complained to Defendant Janice Henrich of the corrupt and illegal grievance procedures at Five Points Correctional Facility in which the plaintiffs West and Shariff was very much threatened about being removed from the job as Inmate grievance

Representatives by deliberate indifference, and gross negligence.

61. Plaintiff's West and shariff, while Inmate Grievance Representatives complained to Defendant Henrich about violations of the Inmate grievance Training Manual, and Directive # 4040 violation (1998 Version), are as listed below as to specific complaints:

A. Violations of I.G.R.C. TRAINING MANUAL

1. Purpose of the IGRC was undermined by improper procedures;
2. Statutory Authority of the I.G.R.C. TRAINING MANUAL on it's procedures were not being followed by the grievance office under Henrich's supervision;
3. That the basic principles of the I.G.R.C. Training Manual was not being followed at Five Points as to the six categories;
4. That, the Inmate Grievance Program Structure, on Level I, Level II were not followed pursuant to the Manual and the Directive # 4040;
5. That, there was no adherence to Job Description as to the "ROLE ON AN INFORMAL LEVEL" BECAUSE THE ILLEGAL POLICY AND PRACTICE AND CUSTOM OR USAGE WAS TO TELL ALL INMATES TO SIGN OFF ON THEIR GRIEVANCES NOT TO THEIR SATISFACTION. Also, the the curtailing I.G.R.C. Representatives West and Shariff from from advising grievants in violation of Training Manual and Directive # 4040, ON A FORMAL LEVEL THIS PROCEDURE IS VERY MUCH OBFUSCATED AND UNDERMINED BY THE Ms. Henrich, Lauber, I.G.R.C. John Do Sgt. 1-9, and Supt., along with his staff;
6. The I.G.R.C. REPRESENTATIVES DUTIES ARE UNDERMINED, HINDERED AND DISTORTED BY FALSE PROCEDURES which are condoned by very supervisor we are complaining to;
7. Inmate Grievance Clerk's are not the first and principle contact for a inmate wishing to file a grievance. Because of the interference of defendant Lauber and condoned by defendant Henrich. The inaccurate grievance logs by ggrievance clerks, failure to provide hearing notices to grievants, failure to provide assistance to grievants/inmates in the preparation of grievances, and failing to code and docket grievances at the time of receipt truthfully;
8. Inmate Grievance Resolution Committee selection of Chairman' violates Directive # 4040 and Training Manual and is a cover-up to keep corruption and illegal procedures in place by the



9. That Inmate Grievance Supervisor J. Henrich is allowing a number of civilian DOCS Employee's to have access to the I.G.R.C. Records and Grievants Grievance files violating IGRC Training Manual and Director # 4040 of Confidentiality by deliberate indifference;
10. Medical grievances are not properly responded to by the alleged to or involved in the incident, which false answers provided falsely in behalf of someone in behalf of a who is not a direct party. And their is falsification of of response's to grievances condoned by grievance Supervisor as defendant and defendants Lauber and John Doe IGRC Sgt.'s;
11. ADA ACT grievances not properly investigated by the I.G.R.C. Representatives and IGRC Staff per Directive 4040 and IGRC Training Manual; and
12. Retaliation and Hostile working environment against IGRC Representatives WEST and Shariff.

62. Nothing was done to take corrective, remedial, administrative, nor disciplinary action as to the complaints by West and Shariff to Inmate Grievance Supervisor Henrich, Lauber, and John Doe IGRC Sgt.'s at time of Inmate Grievance Representatives West and Shariff's beginning terms of a job protected by "Protected Conduct" by deliberate indifference, and gross negligence, which they were the persons that were in effect thwarting and undermining the Grievance Program at Five Points.

63. Plaintiff West, Shariff asserted the right to complain to the Public Officials as defendants Henrich, Lauber, and John Doe I.G.R.C. Sgt. 1-9 (Defendant Sgt. Case) wherein our complaints fell on death ears because of their meeting of the minds in furtherance of an conspiracy against Shariff and West being I.G.R.C. Representatives for the Inmate Grievance Program while acting under color of state and federal law, well established on the issue of protected conduct under the First Amendment to the United States Constitution, and the Fourteenth Amendment to the United States Constitution.

64. The Plaintiff's West and Shariff's attempt's to obtain redress of a perceived violation of state law that was protected conduct under was ofuscated by defendants Henrich, Lauber, and John Doe IGRC Sgt.'s Case, Parrish, Pabon by their deliberate indifference, and gross negligence, which by their

inaction to take corrective action, remedial action, and disciplinary action against DOCS Employee's improper grievance procedures they did by their acquiescence joined into a meeting of the minds with defendants Henrich and Lauber in furtherance of an conspiracy was so pervasive it undermined the whole grievance program structure by gross negligence and deliberate indifference towards the plaintiffs West and Shariff.

65. As a result of Plaintiff's West and Shariff following Section 138 of New York Corrections Law were retaliated against by defendants Henrich, lauber, for making written or oral statements, demands, or requests change in institutional conditions of the Grievance Program, as to the Directive # 4040 and the IGRC Training Manual, as to policies, rules, regulations, or laws affecting an institution by their deliberate indifference and gross negligence in the concerted and systematic efforts of falsification of Department of Correctional Services against Plaintiffs West and Shariff.

66. After the Plaintiff's West and Shariff's oral complaints were not considered, nor adhered to pursuant to Directive 4040, IGRC Training Manual, Sections of the DOCS Employee's Manual and well established law by the United States Court of Appeals, for the Second Circuit in the GRAHM v. HENDERSON, case by the deliberate indifference, and gross negligence.

67. Plaintiff West wrote a letter to Defendant Henrich of the illegal selection process by her in the selection of the IGRC Chairman for IGRC Hearings in violation of Directive 4040 and IGRC Training Manual, which defendant Henrich intentionally refused to answer my letter on her corrupt and illegal IGRC Chairman Selection and made my letter out to be a grievance in which the Defendant Poole joined into by his inaction to take corrective action, remedial action and disciplinary action pursuant to Section 24.1 of the DOCS Employee's Manual, which was in furtherance of a conspiracy to undermine and thwart my Section 138 of Correction Law written complaint through a corrupt and illegally run Grievance Program that they are conspiring to keep in place by concerted and systematic efforts by deliberate indifference and gross negligence.

68. That, defendants Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 Case, Parrish, Pabon,  
created a hostile working environment for Plaintiff's West and Shariff by their deliberate indifference with gross negligence to force the Plaintiff's to quit by discriminatory acts of selective discrimination

of Plaintiff in the racial discrimination, religious discrimination, and racially motivated harassment in retaliation of protected conduct under the first amendment as Inmate Grievance Representatives, which plaintiffs were being discriminated against under the Americans with Disabilities Act and the Rehabilitation Act by deliberate indifference and gross negligence.

69. Plaintiff's West and Shariff, alleges and avers, that all of the Defendants Goord, Bernardi, Poole, Eagen, Jane Doe (Denis/Dennis, Henrich, Lauber, John Doe IGRC Sgt.'s Case, Parris, Pabon

\_\_\_\_\_, knew or should have reasonably had known or aware of Plaintiff's West and Shariff's job with within the realm of protected conduct under the First and Fourteenth Amendments to the United States Constitution by their deliberate indifference, gross negligence in the violation of well established law.

70. Plaintiffs James West and Abdul Muhammad Shariff did not attempt to hide their activities of engaged conduct of Section 138, Subd. 4, of the New York Corrections Law, from Defendants Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 Case, Parrish, Pabon

\_\_\_\_\_, and others not well known or fully known (who will be added later as they become known), which Defendant Poole was personally aware of through numerous grievances filed by Plaintiff's West and Shariff at all times relevant to their engaged in conduct which was in fact protected conduct complaints under Section 138, subd. 4 of the New York Corrections Law, and were deliberately indifferent with gross negligence too the plaintiffs.

71. Plaintiffs West and Shariff, contend that the closeness in time thereafter between the events was mor than sufficient to allow a reasonable trier-of- fact to conclude and / or infer in knowing plaintiffs objections to the illegal and corrupt running of the INmate Grievance Program at Five Points and retaliated against the Plaintiffs for it in the following ways as described by deliberate indifference with gross negligence.

72. The temporal proximity between an inmates protected protected conduct and the adverse action of defendants portray or exhibit more than circumstantial evidence of retaliation. Especially, because of Plaintiffs West's litigation against the New York State Department of Correctional Services as well as his protected conduct. Also, Shariff, in his litigation against the Department of Correctional services and his protected conduct as a Inmate Grievance Representative.

73. Approximately, On -----, 2003, Plaintiff's West and Shariff filed grievances against Defendants Henrich, Lauber for their deliberate indifference based upon discriminatory actions against the Inmate Grievance Representatives Shariff and West, because of their disability. By allowing the able-bodied IGRC Workers to travel around the facility to conduct grievance investigations, which were, and are the Inmate Grievance Representatives job function. Also, allowing the able bodied workers too remain within the IGRC Office during out counts while the Defendant's Henrich, Lauber and IGRC Staff Sgt.'s 1-9 sent the only two disabled Inmate Grievance Representatives back to their housing units. See, FPT-8093-03.

74. Because of the complaints of Plaintiffs West and Shariff of the discriminatory acts, where the able-bodied workers were able to catch up on their work and perform work, function and duties of the Inmate Grievance Representatives illegally with deliberate indifference with gross negligence, which the the performance of such duties by the IGRC Clerk's was a set-up for false charges against Plaintiff's West and Shariff that they were behind in their job assignments whereas their was no providance for West and Sharif to do their job on the same equal basis as others by defendants Henrich, Lauber, and John Doe IGRC Sgt.'s 1-9 by deliberate indifference and gross negligence.

75. Defendant's Henrich, Lauber, and John Doe IGRC Sgt.'s 1-9 did with a meeting of the minds conspire by concerted and systematic efforts against Plaintiffs West and Shariff in constructing a discriminatory job description entitled "DUTIES FOR IGRC REPRESENTATIVES" that was at best discriminatory and retaliatory against the plaintiffs with deliberate indifference, inwhic Plaintiffs West and Shariff were coerced to sign these selective new rules that only singled plaintiffs out, only, on July 23, 2003.

76. Plaintiff Shariff filed a grievance on the lack of pay grade-4, that IGRC Representatives were supposed to receive as Inmate Grievance Representatives. See, FPT-8530-03, which done by deliberate indifference and gross negligence by Defendants Henrich, Lauber, and John Doe IGRC Sgt.'s to further discriminate with their racially motivated against the plaintiffs West and Shariff.

77. On August 25, 2003, Plaintiff Shariff filed a grievance against Defendant Janice Henrich, Lisa Lauber, and John Doe IGRC Sgt.'s 1-9 for forcing Inmate Grievance Representatives West and Shariff to deviate from

Directive # 4040 and I.G.R.C. Training Manual in furtherance of the ongoing undermining, and conspiracy against the Inmate Grievance Resolution Committee (Grievance Program) at Five Points Correctional Facility by their deliberate indifference, and gross negligence.

78. That, this is not the first instance in which the New York State Department of Correctional Services failed to properly supervise their subordinates in retaliation against Inmate Grievance Representatives at Sing Sing Correctional Facility by their deliberate indifference, and gross negligence. Because the superiors in the Sing Sing Prison case by their inaction to take corrective, remedial, and disciplinary action joined into the very conduct that was being then complained about, as in this present matter of West and Shariff being retaliated against in violation of the ADA ACT, REHAB. ACT, FIRST AND FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, which defendant GOORD, C.O.R.C. (Deputy Commissioners and others), Bernadri, Eagen, Jane Doe (Denis/Dennis, Regional Grievance Supervisor) had personal knowledge about the corrupt, illegal, and fraudulent grievance procedures at Five Points and condoned them for such a time without corrective action can only mean that they condoned whatever their subordinates at Five Points were doing, which Dedent Poole was aware of at all relevant times because he was one of the proximate causes of the corruption in the grievance program at the prison by deliberate indifference.

79. Plaintiff West, wrote to George E. Pataki (Governor), Alan J. Croce (Chairman, N.Y. State Commission of Correction), and Stephan L. Weiner (Chairman, Commission of Investigation), giving them Actual and Constructive Notice of all of my claims of complaint on the corrupt, an illegally run grievance program at Five Points. They failed to take any appropriate corrective, remedial, administrative, nor disciplinary action against Prison Officials at DOCS Central Office, nor Five Points, which can only mean that by their inaction there was a meeting of the minds between all the defendant, in which they joined into a conspiracy with those defendants plaintiffs are complaining of in this action by their deliberate indifference, and gross negligence.

80. That, Governor Pataki, Alan Croce, and Stephan Weiner, are on notice that they will be defendants pursuant to Rule 15 (a), (b), (c), of 28 United States Code Annotated, of the Federal Rules of Civil Procedure for their to clear up corrupt and deliberately indifferent grievance program at Five Points which abused federal funding by gross negligence and deliberate indifference.

81. That the Defendants Pataki, Croce, and Weiner received a fully documented package of papers describing the misconduct and corruption, which all failed to respond to my correspondence except for defendant Staphan L. Weiner, by their deliberate indifference .

82. Defendant Stephan L. Weiner. Chairman, of the Commission of Investigation, for the State of New York, pursuant to § 7501 et seq., of the N.Y. Unconsolidated Law is bound to investigate matters of the public safety, public justice, including investigations of fraud, corruption and mismanagement in State and Local Governments. But, failed to do so in my request for a corrupt, illegally run Grievance Program that misused federal funding at Five Points, and mismanaging the Inmate Grievance Program because his as Defendant Pataki Cabinent Members theri was a meeting of the minds to cover-up the corruption reported to him by Plaintiff's in direlection with deleiberate indifference.

83. Defendant Weiner, passed the buck and directed the Head of the Inspector General for the Department of Correctional Services, and a Female Inspector General at the State Capitol, in Albany New York, who will be added later as defendant, deliberate indifference in all of their meetings of the minds in furtherance of a conspiracy and cover-up of a corrupt and illegally run Inmate Grievance Program at Five Points.

84. Alan J. Croce, Chairman, of the State Commission of Correction, (Executive Department) 4 Tower Place, Albany, N.Y. failed in its duties under Section 45 of New York Corrections Law, to visit, inspects Corr. Facilities, hears and investigates grievances and complaints in the operation of Correctional Facilities by deleiberate indifference by a meeting of the minds with Defendant Goord, Pataki and others in allowing a corrupt grievance program to exist at Five Points for years unchecked and to discriminate against the disabled, et cetera with the grossly negligent actions by their inaction to take corrective, remedial, and disciplinary or recommend such.

85. That, the Inspector General for the NYS Department of Correctional Services and Female Inspector General, out of the State Capitol address directed by Stephan L. Weiner, intentional failed with gross negligence with deliberate indifference to properly investigate Five Points Grievance Program that was ran illegally and corruptly with im proper grievance procedures and violations in furtherance of a conspiracy by their inaction for truthful corrective, remedial, and disciplinary action can only mean that they joined to the coduct complained of that

Plaintiff's West and Shariff avers, which their recklessness is the only reason that the corrupt, illegally grievance procedures exist still to this present day because of their deliberate indifference.

86. Plaintiff Shariff wrote to the Commissions of Investigation as Plaintiff West and reiterates paragraphs 78, in full, and same content that it applies to Plaintiff West and Shariff alike for a cause of action by their deliberate indifference with gross negligence, as to Governor Pataki, Croce, Weiner, Inspector's general's for the NYS State Department of Correctional Services and Female Inspector out State Capitol, in Albany (Kovner-phonetics).

87. Plaintiff West filed grievance in Sept. 2003, of the A. First Step, procedures of the grievance program not being followed by the deliberate indifference by Defendants Henrich, Lauber, John Doe IGRC Sgt/'s 1-9 Case, Parrish, Pabon, and others.

88. Plaintiff West filed grievance on the grievances not being properly coded pursuant to Directive 4040, et cetera, against I.G.P. Grievance Supervisor Henrich, Jane Doe, Regional Grievance Supervisor, L. Lauber, T. Eagen, Commissioner Goord, prior Docs Correction Officer', CORC, State Commission of Correction by their deliberate indifference.

89. Plaintiff West filed grievances on Holding up grievances in the delaying in number/logging by illegal & improper procedures by C.O. Lauber and Henrich by deliberate indifference in delayed, lost etc. in grievances, by defendants.

90. Plaintiff filed grievance of defendant Lauber interference with grievance mail to grievance clerk and Supervisor, which Henrich condoned inviolation of their own directive in furtherance of violation of DOCS Employee's Manual by deliberate indifference with gross negligence, by poor impulse control, filed in Sept. 2003.

91. In September, 2003, Plaintiff West filed grievance on a very Hostile working environment under Title 7, § 1983, § 1885, : 1986, an ADA ACT & REHAB. ACT in a discriminatory manner by deliberate indifference, and gross negligence.

92. Plaintiff West filed grievance of Defendants Lauber leaving her assigned post in violation of DOCS Employee's Manual along with Defendant Henrich. Defendants leave their post at approx. same time to go on four smoke breaks a morning, four in afternoon, every day, which they go on these smoke breaks illegally to conspire against plaintiff's West and Shariff with deliberate indifference and gross negligence.

93. Plaintiff West filed grievance against defendant Poole (Supt.) for intentionally failing to follow time limits pursuant to Directive 4040 and IGRC Training Manual which under mines the Grievance Program when the Chief Executive of the prison cannot follow rules. But, than expects prisoners because of defendants deliberate indifference with gross negligence.

94. Plaintiff West filed a grievance on defendant J. Henrich, his Supervisor for miscoding grievances in a concerted and systematic effort of denying inmates Due Process within the grievance mechanism at the Five Points Correctional Facility in violations of Departmental memorandum by Defendant Stephan Bernardi on harassment type grievances by deliberate indifference. The grievance alleged harassment, discrimination, and retaliation against Plaintiff West and Shariff.

95. Plaintiff West and Shariff contends defendant Stephan Bernardi, on February 11, 1998, forwarded a "MEMORANDUM" to all Superintendents in the New York State Department of Correctional Services, on the subject matter, of the process for Harassment/Unlawful discrimination Grievances which defendant Poole, Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 Case, Parrish, Pabon, Jane Doe (Denis/Dennis Reg. Grievance Supervisor) did refuse to follow by deliberate indifference with gross negligence, did fail to follow by a meeting of the minds in furtherance of a conspiracy that is ongoing to this day.

96. That there existed a meeting of the minds between defendant's Henrich and Poole to miscode grievances on harassment/Unlawful Discrimination , so that that would not come to defendant Poole, so as to keep the count of such grievances down or a record of such by the deliberate indifference with gross negligence by defendant Poole's inaction to properly investigate plaintiff's West and Shariff's complaints instead of the perfunctory cover-up investigations that were merely designed to cover his butt.

97. Defendant Bernardi failed to properly supervise defendant Poole, Henrich, Jane Doe (Denis/Dennis Regional Grievance Supervisor) for the failure to properly code harassment/unlawful Discrimination grievances for such a long period of time by his deliberate indifference in the failure to take corrective, remedial, disciplinary, and administrative action can only mean that defendant joined into a meeting of the minds to the very conduct complained of to him in writing by Plaintiff West, which he failed to respond to appropriately, and misused federal funding for the grievance program by insuring it ran pursuant to Directives and Training Manual.



98. Defendant Stephan Bernardi, a Deputy Commissioner, Compliance & Review, for the New York State Department of Correctional Services, before his retirement at all relevant times that pertain to his deliberate indifference to taking corrective, remedial and disciplinary action against Defendants Henrich, Lauber, John Doe IGRC Sgt.'s 1-9, Jane Doe (Denis/Dennis, Regional Grievance Supervisor) for the running of a corrupt, illegal, and mismanagement of the Five Points Grievance Program for years before he retired by gross negligence and deliberate indifference. Defendants inaction could only mean that he joined into the very same conduct, actions, and behavior that was complained of as the other defendants.

99. Defendant Bernardi, had personal knowledge of what was going on at the Five Points Grievance Program at all times relevant to this civil action. But, did nothing to make corrective action, nor remedial, and went on to retire knowing the Grievance Program was in a mess because of the actions of Defendants Henrich, Lauber, prior IGRC Officer's Davis and Willims. Also, John Doe IGRC Sgt.'s 1-9, Jane Doe (Denis/Dennis, Reg. Grievance Supervisor, Defendant Poole and his staff, along with T. Eagen by his deliberate indifference, and gross negligence.

100. Defendant Bernardi failed to investigate further as a member of the C.O.R.C. for the Grievance Program that his February 11, 1998, MEMORANDUM was not being followed at Five Points by the Grievance Supervisor, her superior (Denis/Dennis), Lauber, John Doe IGRC Sgt's 1-9 Case, Parrish, Pabon and others by deliberate indifference of defendant.

101. Defendant Bernardi, along with Defendant Goord, knew or should have reasonably known that the federal funds for the Five Points Grievance Program was not being utilized properly. That there was an improper supervision of the Grievance Program at Five Points because of failure to properly supervise, Defendant T. Eagen (Director) included by his intentionally condoning the mismanagement of the grievance program at the prison Five Points.

102. Defendant Goord failed to properly supervise defendants Stephan Bernardi, T. Eagen (Director of Grievance Program) and Regional Grievance Supervisor's, who all are designated by the defendant Goord in jobs to insure the proper functioning of the grievance program at Five Points Correctional Facility. Defendant Goord in his deliberate indifference, and gross negligence condoned such actions, behavior, and conduct that was in violation of the DOCS Employee's Manual. By his inaction the defendant's action did say that whatever they do illegally, corruptly, wrongly with deliberate

103. Defendant Janice Henrich, who is the Inmate Grievance Program Supervisor at Five Points Correctional Facility by deliberate indifference intentional refused to supervise the Grievance Program pursuant to the IGRC TRaining Manual even though Plaintiff's West and Shariff made oral complaints under Section 138 of Corrections Law, and unlawfully discriminated against the disabled plaintiffs with deliberate indifference in violating certain section of the IGRC Training Manual, below:

- a. Violated the Purpose;
- b. Statutory Authority, by making her own in-house rules by her deliberate indifference as to rules, regulations and practice with time limits;
- c. That there was no annual evaluation and assessment of grievance procedures by the commissioner, except for cover-up and fraudulent procedures in a meeting of the minds;
- d. Basic Principles were fraudulent and alleged independent review from outside the facility was always one of cover-up by Central Office Review Committee with deliberate indifference;
- e. Composition of the IGRC is one of a manipulation of illegal Ballot Count for elections, and staff is improperly trained, supervised, and improperly selected, and have poor impulse control;
- f. The IGP Structure has been one of fraud and deliberate idifference with gross negligence at Levels I, II, and III;
- g. The role of the Inmate Grievance Resolution Committee (IGRC) and Job Description are not followed. But with unlawful discrimination against the disabled, on a Informal Level or a Formal level with deliberate indifference;
- h. That, IGRC Representative Duties are undermined with the deliberate indifference and gross negligence that discriminates against disabled grievance representatives, such as West & Shariff;
- i. That, Inmate Grievance Clerk's perform illegal tasks at the dir- of Defendant Henrich to set-up disabled grievance representatives which are not their duties under the Training Manual and the Directive 4040, there is no maintenance of a accurate grievance log as to clerk's through false daily entries;
- j. The Supervisor (Henrich), IGRC SGT.'s JOHN DOE 1-9 is not he first and principle contact for an inmate wishing to file a grievance, and is not the primary responsibility of the clerk to assist in-

mates;

- k. IGRC Clerks do not provide hearing notices, nor make certain that all direct parties to the grievances and witnesses, if any, are afforded an opportunity to appear by the deliberate indifference;
- l. That Chairpersons for the Grievance Program at Five Points Corr. Facility, are illegally done in violation of the IGRC Training Manual and Directive 4040, as to all specific duties, and the Chairperson is not selected properly. What has been done is the allowance of IGRC Clerk's to act as Chairpersons illegally to keep the corrupt and illegal, procedures ongoing by deliberate indifference;
- m. Illegal investigations by deliberate indifference by a code of silence by DOCS Staff Representatives in a meeting of the for their pro-administration positions along with defendant Henrich's support;
- n. Corrupt, fraudulent and false investigation procedures by the defendant Henrich, prior grievance officer staff and present, IGRC Sgt.'s and prison officials;
- o. Informal resolutions are to tell inmates to sign off of a grievance that is not to the satisfaction of the grievant, which is the custom and usage, policy and practice by deliberate indifference;
- p. That, hearing are undermined by IGRC Staff's pro-administration positions, with illegal hearings for SHU and Keeplock grievants by an illegal procedure by Henrich and IGRC Staff Representatives, DOCS Staff is one minded
- q. Inmate Grievance Representatives are precluded from getting all of the facts to grievances by the undermining of grievances by Defendants Henrich, and Poole's illegal policies, practices and procedures in violation of their own Directives, IGRC Training Manual, and DOCS Employee's Manual by deliberate indifference with gross negligence; and
- r. Retaliation against grievance representatives who will not or follow false procedures for the grievance program.

**VIOLATIONS OF DIRECTIVE # 4040 (6/8/98) superseded in 2003.**

- 1. Inmate Grievance Representatives are retaliated against for being Advisor's or giving advise to grievants on their grievances by defendants Henrich, Lauber, and IGRC Sgt.'s by their deliberate indifference and grossly negligent Code of Silence by DOCS Employee's with meeting of the minds with Correction Officer Union;
- 2. Non-grievable issue that are grievances are undermined and have been undermined by deliberate indifference, pursuant to the last lines of III. General Policies, subd. E.
- 3. Outside Agencies Excluded section is a sham, in violation of Section 24.1 of the DOCS Employee's Manual by deliberate indifference.
- 4. Reasonable Accommodations Section of Directive is undermined and illegally usurped by Defendants Henrich, Poole, Lauber,

- mates;
- k. IGRC Clerks do not provide hearing notices, nor make certain that all direct parties to the grievances and witnesses, if any, are afforded an opportunity to appear by the deliberate indifference;
  - l. That Chairpersons for the Grievance Program at Five Points Corr. Facility, are illegally done in violation of the IGRC Training Manual and Directive 4040, as to all specific duties, and the Chairperson is not selected properly. What has been done is the allowance of IGRC Clerk's to act as Chairpersons illegally to keep the corrupt and illegal, procedures ongoing by deliberate indifference;
  - m. Illegal investigations by deliberate indifference by a code of silence by DOCS Staff Representatives in a meeting of the for their pro-administration positions along with defendant Henrich's support;
  - n. Corrupt, fraudulent and false investigation procedures by the defendant Henrich, prior grievance officer staff and present, IGRC Sgt.'s and prison officials;
  - o. Informal resolutions are to tell inmates to sign off of a grievance that is not to the satisfaction of the grievant, which is the custom and usage, policy and practice by deliberate indifference;
  - p. That, hearing are undermined by IGRC Staff's pro-administration positions, with illegal hearings for SHU and Keeplock grievants by an illegal procedure by Henrich and IGRC Staff Representatives, DOCS Staff is one minded
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- 4. Reasonable Accommodations Section of Directive is undermined and illegally usurped by Defendants Henrich, Poole, Lauber,

John Doe I.G.R.C. Sgt.'s 1-9, Jane Doe (Denis/Dennis), T. Eagen, C.O.R.C. (Deputy Commissioner's, Assoc. Commissioner's and all Designate's on the C.O.R.C., and others), and Commissioner G. Goord;

6. Deliberately indifferent I.G.R.C. Chairperson Selection the defendant Henrich, who was the Inmate Grievance Program Supervisor, which was illegally condoned by defendant's Poole, Eagen, Goord, C.O.R.C. (defendants), Regional Grievance Supervisor's as Jane Doe, and others;
7. Grievance Clerk selection by defendant Henrich and the Correction Officer Union members, etc.;
8. Section V. Procedures illegally usurped by deliberate indifference defendants Henrich, Lauber, and John Doe IGRC Sgt.'s 1-9, which were deliberately indifferently condoned by Defendants Poole, Goord, Eagen, Jane Doe (Denis/Dennis and Successors), C.O.R.C.;
9. First Step, Inmate Grievance Resolution Committee Procedures are deliberately usurped by deliberate indifference;
10. Prisoners at Five Points are deliberately denied Informal Resolution of their grievances and investigations within seven working days by deliberate indifference;
11. Prisoners are denied fair and impartial grievance hearing and and paperwork/documents in violation of their First Amendment Fourteenth Amendment Rights for meaningful and reasonable access to the courts by all defendants named or will be named;
12. DOCS Civilian Employee's illegally given access to grievance records in violation of the Confidentiality Section of Directive 4040, and without the consent of the grievant by deliberate indifference;
13. Investigation of all grievance by DOCS staff employee's are one of cover-up, manipulation, usurping and/or undermining the IGRC Program at Five Points, by a meeting of the minds/conspiracy;
14. That, IGRC Clerk's were allowed to illegally perform the Inmate Grievance Representatives Job Description by deliberate indifference, and gross negligence, which distorted proper facts of a grievant's grievance;
15. That, grievance did informally resolve grievances in violation of the Federal Statutes, and the Prisoner's Litigation Reform Act, illegally with deliberate indifference;
16. That, Plaintiff's West and Shariff, were unlawfully discriminated against in that grievance clerk's and prior IGRC Reps. were allowed to stay back during the 11:00 a.m. count to catch up on their work. But, West and Shariff were discriminated against by deliberate indifference;
17. That, West and Shariff were set-up for false Informal Charges, and Formal Charges by agents of the defendant's Henrich and Lauber for a meeting of the minds in setting West and Shariff up for retaliation and false charges leading up to false impeachment procedures by Henrich, Lauber, John Doe IGRC Sgt.'s 1-9, Supt. Poole, Jane Doe (Denis/Dennis) and others not fully known who will be added later. Because grievance files that the IGRC Representatives West and Shariff worked on were daily sabotaged.

John Doe I.G.R.C. Sgt.'s 1-9, Jane Doe (Denis/Dennis), T. Eagen, C.O.R.C. (Deputy Commissioner's, Assoc. Commissioner's and all Designate's on the C.O.R.C., and others), and Commissioner G. Goord;

6. Deliberately indifferent I.G.R.C. Chairperson Selection the defendant Henrich, who was the Inmate Grievance Program Supervisor, which was illegally condoned by defendant's Poole, Eagen, Goord, C.O.R.C. (defendants), Regional Grievance Supervisor's as Jane Doe, and others;
7. Grievance Clerk selection by defendant Henrich and the Correction Officer Union members, etc.;
8. Section V. Procedures illegally usurped by deliberate indifference defendants Henrich, Lauber, and John Doe IGRC Sgt.'s 1-9, which were deliberately indifferently condoned by Defendants Poole, Goord, Eagen, Jane Doe (Denis/Dennis and Successors), C.O.R.C.;
9. First Step, Inmate Grievance Resolution Committee Procedures are deliberately usurped by deliberate indifference;
10. Prisoners at Five Points are deliberately denied Informal Resolution of their grievances and investigations within seven working days by deliberate indifference;
11. Prisoners are denied fair and impartial grievance hearing and and paperwork/documents in violation of their First Amendment Fourteenth Amendment Rights for meaningful and reasonable access to the courts by all defendants named or will be named;
12. DOCS Civilian Employee's illegally given access to grievance records in violation of the Confidentiality Section of Directive 4040, and without the consent of the grievant by deliberate indifference;
13. Investigation of all grievance by DOCS staff employee's are one of cover-up, manipulation, usurping and/or undermining the IGRC Program at Five Points, by a meeting of the minds/conspiracy;
14. That, IGRC Clerk's were allowed to illegally perform the Inmate Grievance Representatives Job Description by deliberate indifference, and gross negligence, which distorted proper facts of a grievants grievance;
15. That, grievance did informally resolve grievances in violation of the Federal Statutes, and the Prisoner's Litigation Reform Act, illegally with deliberate indifference;
16. That, Plaintiff's West and Shariff, were unlawfully discriminated against in that grievance clerk's and prior IGRC Reps. were allowed to stay back during the 11:00 a.m. count to catch up on their work. But, West and Shariff were discriminated against by deliberate indifference;
17. That, West and Shariff were set-up for false Informal Charges, and Formal Charges by agents of the defendant's Henrich and Lauber for a meeting of the minds in setting West and Shariff up for retaliation and false charges leading up to false impeachment procedures by Henrich, Lauber, John Doe IGRC Sgt.'s 1-9, Supt. Poole, Jane Doe (Denis/Dennis) and others not fully known who will be added later. Because grievance files that the IGRC Representatives West and Shariff worked on were daily sabotaged;

18. That, DOCS IGRC Staff decisions were based upon a Code of Silence with Union Members by deliberate indifference, and the same goes for the alternate DOCS IGRC Staff Representatives;
19. That, DOCS IGRC Staff Representatives Defendants' L. Lauber, and John Doe IGRC Sgt.'s 1-9 intentionally failed to perform Job Duties intentionally by deliberate indifference in violation of Directive 4040 and IGRC Training Manual, which did in fact pass their work duties on the disabled plaintiff's West and Shariff in violation of applicable laws, privileges and immunities;
20. That, inmates were denied the proper Informal Resolution of their grievances by the defendants Henrich, Lauber, and John Doe IGRC Sgt.'s 1-9 by deliberate indifference;
21. That, defendants' Lauber and John Doe IGRC Sgt.'s intentionally failed to equally informally resolve grievances on the equal opportunity and equal basis of Plaintiff's West and Shariff by deliberate indifference, which was condoned by the defendant Henrich, along with her superiors, Defendant Poole, Jane Doe (Denis/Dennis);
22. Appeals to Defendant Supt. Poole were not properly monitored by Defendants Henrich, Lauber, and their agents, along with Jane Doe (Denis/Dennis), and others by deliberate indifference by a failure to follow timeliness at the level;
23. Inmate were denied Advisors at grievance hearings by defendant's Henrich, Lauber, Jane Doe (Denis/Dennis), Poole, Eagen, Goord, and the C.O.R.C. by deliberate indifference in violation of the Directive and IGRC Training Manual;
24. IGRC ACCESS/MOVEMENT WITHIN INSTITUTION FOR EFFECTIVENESS IN GRIEVANCE PROGRAM WAS UNDERMINED BY DEFENDANTS' HENRICH, POOLE, LAUBER, JANE DOE (DENIS/DENNIS), EAGEN, CORC, AND GOORD WITH BERNARDI BY DELIBERATE INDIFFERENCE WITH GROSS NEGLIGENCE:
25. IGRC INTERVIEW OF EMPLOYEE'S WAS ONE OF FRAUD, DECEIT AND OF FRAUDULENT CONCEALMENT BY DELIBERATE INDIFFERENCE BY DESIGN DEFENDANT'S HENRICH, POOLE, LAUBER AND JOHN DOE IGRC SGT.'S;
26. TIME LIMITS WERE ILLEGALLY NOT FOLLOWED IN THE IGRC OFFICE, AND AT THE DEFENDANT POOLE'S LEVEL CONSTANTLY BY DELIBERATE INDIFFERENCE;
27. FILE MAINTENANCE/CONFIDENTIALITY WAS DAILY VIOLATED BY LEAKS TO OFFICER'S AND THE ALLOWANCE OF DOCS FEMALE EMPLOYEE(S) TO HANDLE GRIEVANCE FILES, RECORDS ET CETERA IN VIOLATION OF THE DIRECTIVE 4040 AND IGRC TRAINING MANUAL BY DELIBERATE INDIFFERENCE;
28. IMPROPER IGRC REFERENCE MATERIALS:
29. DEFENDANT HENRICH FALSELY STATING GRIEVANCES AS EMERGENCIES TO UNDERMINE GRIEVANCE PROGRAM WITH MEDICAL DEPARTMENT AND THEM TO FILE FALSE REPORTS AND INVESTIGATIONS IN VIOLATION OF THE Directive 4040 and IGRC TRAINING MANUAL, WITH LAUBER JOHN DOE IGRC SGT.'S 1-9 acting in concert;
30. Procedures for Inmates in Special Housing Units were not being followed by Defendant Henrich, which was her area of responsibilities and failed to do her job and illegally passed job on to

18. That, DOCS IGRC Staff decisions were based upon a Code of Silence with Union Members by deliberate indifference, and the same goes for the alternate DOCS IGRC Staff Representatives;
19. That, DOCS IGRC Staff Representatives Defendants' L. Lauber, and John Doe IGRC Sgt.'s 1-9 intentionally failed to perform Job Duties intentionally by deliberate indifference in violation of Directive 4040 and IGRC Training Manual, which did in fact pass their work duties on the disabled plaintiff's West and Shariff in violation of applicable laws, privileges and immunities;
20. That, inmates were denied the proper Informal Resolution of their grievances by the defendants Henrich, Lauber, and John Doe IGRC Sgt.'s 1-9 by deliberate indifference;
21. That, defendants' Lauber and John Doe IGRC Sgt.'s intentionally failed to equally informally resolve grievances on the equal opportunity and equal basis of Plaintiff's West and Shariff by deliberate indifference, which was condoned by the defendant Henrich, along with her superiors, Defendant Poole, Jane Doe (Denis/Dennis);
22. Appeals to Defendant Supt. Poole were not properly monitored by Defendants Henrich, Lauber, and their agents, along with Jane Doe (Denis/Dennis), and others by deliberate indifference by a failure to follow timeliness at the level;
23. Inmate were denied Advisors at grievance hearings by defendant's Henrich, Lauber, Jane Doe (Denis/Dennis), Poole, Eagen, Goord, and the C.O.R.C. by deliberate indifference in violation of the Directive and IGRC Training Manual;
24. IGRC ACCESS/MOVEMENT WITHIN INSTITUTION FOR EFFECTIVENESS IN GRIEVANCE PROGRAM WAS UNDERMINED BY DEFENDANTS' HENRICH, POOLE, LAUBER, JANE DOE (DENIS/DENNIS), EAGEN, CORC, AND GOORD WITH BERNARDI BY DELIBERATE INDIFFERENCE WITH GROSS NEGLIGENCE;
25. IGRC INTERVIEW OF EMPLOYEE'S WAS ONE OF FRAUD, DECEIT AND OF FRAUDULENT CONCEALMENT BY DELIBERATE INDIFFERENCE BY DESIGN DEFENDANT'S HENRICH, POOLE, LAUBER AND JOHN DOE IGRC SGT.'S;
26. TIME LIMITS WERE ILLEGALLY NOT FOLLOWED IN THE IGRC OFFICE, AND AT THE DEFENDANT POOLE'S LEVEL CONSTANTLY BY DELIBERATE INDIFFERENCE;
27. FILE MAINTENANCE/CONFIDENTIALITY WAS DAILY VIOLATED BY LEAKS TO OFFICER'S AND THE ALLOWANCE OF DOCS FEMALE EMPLOYEE(S) TO HANDLE GRIEVANCE FILES, RECORDS ET CETERA IN VIOLATION OF THE DIRECTIVE 4040 AND IGRC TRAINING MANUAL BY DELIBERATE INDIFFERENCE;
28. IMPROPER IGRC REFERENCE MATERIALS:
29. DEFENDANT HENRICH FALSELY STATING GRIEVANCES AS EMERGENCIES TO UNDERMINE GRIEVANCE PROGRAM WITH MEDICAL DEPARTMENT AND THEM TO FILE FALSE REPORTS AND INVESTIGATIONS IN VIOLATION OF THE Directive 4040 and IGRC TRAINING MANUAL, WITH LAUBER JOHN DOE IGRC SGT.'S 1-9 acting in concert;
30. Procedures for Inmates in Special Housing Units were not being



followed by defendant Henrich in which was her area of responsibility. But, was not done, which she passed her job duties on disabled Plaintiff's West and Shariff in a conspiratory plan against Plaintiff's West and Shariff by deliberate indifference.

104. Defendant's Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 violated the following Sections of the DOCS Employee's Manual, listed below:

- a. Section 2.1 Personal Conduct. No Employee, whether on or off duty, shall so comport himself as to reflect discredit upon the Department or its personnel;
- b. Section 2.2 Lawful Comportment. An employee shall not knowingly or willfully violate any law or ordinance of the United States or the State of New York or any rule, regulation, or directive of the Department;
- c. 2.8 No Discrimination. No DOCS Employee shall discriminate against any person on the basis of race, creed, color or 1 and national origin or social status;
- d. Section 3.4 Falsification of Records. No employee shall knowingly make a false official report or statement, oral or in writing, or make, maintain, or cause or permit to be made a false record or false entry in official records;
- e. Section 4.1 Fitness for Duty. When the appearance, manner, or action of an employee is such as to raise reasonable question regarding the employee's ability to satisfactorily perform his assigned duties, such employee's may be directed to submit to an examination (Psychological/Psychiatric). Refusal to submit to such an examination may result in disciplinary action;
- f. Section 6.11 Discharge Duties. Every employee shall discharge his duties and comport himself so as to carry out the programs and policies of the Department;
- g. Section 6.1 Applicability. The following rules (Section 6 thru 19) apply to all employees whose duties require their presence within the bounds of a correctionality facility and to all employees charged with the supervision of inmates;
- h. Section 8.1 Subdivision 3F. Prohibited is Retaliation / Revenge. This type of conduct is counter productive to the well being of the prison facility, and all the persons therein, Directive 4910;
- i. Section No DOCS Employee should speak to an inmate in a hostile demeanor at any time
- j. Section 24.1 Discipline of Employees. Departmental discipline may be imposed for violation of Department or Facility rules, regulations, directives, or provisions of this manual; for failure or neglect in the performance of duties; for conduct prejudicial to the best interest of the service; or for any other good and sufficient reason. Discipline of employees shall be in accordance with disciplinary procedures specified by civil service law, contracts with employee organization, and rules issued by the Commissioner.

All employees, uniformed or civilian, are expected to know, understand and act in accordance with the rules, regulations or directives contained or referenced in this manual. Violation

105. Defendant's Jane Doe (Denis/Dennis) Regional Grievance Supervisor, Later Regional grievance Supervisor's , Commissioner Glenn Goord, T. Eagen, C.O.R.C. (Central Office review Committee) and others attending CORC hearings, failed to take corrective, remedial, administrative, nor disciplinary action against defendants Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 can only mean that by their inaction, they thereby joined into the very conduct averred in this civil action in failing to properly train, supervise, properly selection.

106. That, the deliberate indifference in the neglect in the performance of duties, conduct prejudicial and violations of Directives, Correction Law, intentionally lost grievances, violation of the IGRC Training Manual and Directive 4040 by Henrich, Lauber, John Doe IGRC Sgt.'s 1-9, portray a meeting of the minds and abuse of Federal funds for the Inmate Grievance Program at Five Points by DOCS employee's by gross negligence and deliberate indifference.

107. Defendant's Henrich, Lauber, Regional Grievance Supervisors, Visiting Inmate Grievance Supervisors, Supt. Poole, Tom Napoli, and John Doe IGRC Sgt.'s 1-9, condone and violate Directive 4040, VI. Procedural Safeguards, as to Sub. A. Advisors.; B. Reprisals Prohibited.; D. IGRC Access/Movement Within the Institution, subd. 1, 2, 3; E. Interview of Employee's, subd. 1 and 2; F. Code of Ethics; G. Time Limits; J. File Maintenance/ Confidentiality; K. IGRC Reference Materials; VII. PROCEDURES FOR INMATES IN SPECIAL HOUSING UNITS, subd. E. and G.; VIII. HARASSMENT, subd. A, B, C, and D., subd. 1., 2., 3., E., F., and H.; IX. Allegations of Unlawful Discrimination, by deliberate indifference against Plaintiff's West and Shariff, while Inmate Grievance Representatives.

108. Defendant Poole has undermined the Inmate Grievance Program at Five Points Correctional Facility in violation of Section 2.2 Lawful Comportment (DOCS Employee's Manual and IGRC Training Manual) with the deliberate indifference and gross negligence.

109. Defendant Poole in a meeting of the minds with defendant's Henrich, C.O. L. Lauber, and John Doe IGRC Sgt.'s 1-9, by a concerted and systematic effort conspired against Plaintiff West and Shariff for their independant positions on grievances inwhich they tried to coerce the plaintiff's West and Shariff to be docile Inmate Grievance Representatives and to support support defendan's Henrich, Lauber, and John Doe IGRC Sgt.'s 1-9 directions and subtle threats to vote their way on or against inmate grievant's grievances by deliberate indifference.

110. Because the Plaintiff's West and Shariff would not be lackey, flunky, et cetera for defendant's in the grievance process suggested by Defendant's Henrich, Lauber, and John Doe IGRC Sgt.'s plaintiff's were being written up on false informal and formal writes by defendant' Henrich, Lauber, Sgt. Case, Sgt. Pabon, and Sgt. Parrish and other John Doe IGRC Sgt.'s 1-9 by deliberate indifference in violation of Section 138, subd. 4, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. because of plaintiffs disability, sex, race, color, and religion, and the Americans with Disabilities Act by deliberate indifference, and gross negligence in unfair treatment and discriminatory act while Inmate Grievance Representatives.

111. Defendant Henrich, and Poole in a meeting of the minds did with a meeting of the minds conspire against plaintiff West in refusing to file Plaintiff's West's grievances, approximately eight (8) to cover-up violations of a Federal Court Order, Judge Robert J. Ward by deliberate indifference.

112. Plaintiff Divine C. Allah, filed a number of grievances at Five Points Correctional Facility, as listed below:

- a. FPT-10,228-04: Conspiracy In Inmate Grievance Resolution Committee Program. Claim of grievances being destroyed by the Defendant's Henrich and Lauber;
- b. Grievance FPT-10, 690-04: Claim that Defendant Lauber in a Code of silence with fellow union members tried to coerce me to sign off on a grievance to cover-up for misconduct of fellow officer' who are her union members. That, the guard at all times was in harassing me, inwhich she wrote a false investigation report in behalf of her union members in violation of Section 3.4 DOCS Employee's Manual;
- c. Plaintiff filed grievance on running od a corrupt grievance program in a conspiratorial meeting of the minds in the mishandling of plaintiff's grievance by Defendant Lauber, Tom Napoli, and Sgt. McMann by deliberate indifference; owards plaintiff's grievance FPT-10,729-04;
- d. FPT-11,419-04: Grievance filed on Inmate Grievance Supervisor C. Ellison and inmate Hector Peraza (agent provocateur) woking too undermine my grievance in denying me due process within the Inmate Grievance Program by improper grievance procedures;
- e. FPT-11,663-04: Grievance Supervisor Christopher Ellison conspired with a meeting of the minds with IGRC Sgt. O'Keefe. Sgt. O'Keefe illegally confined me in a inappropriate housing status because of filing grievances against him, and et cetera. The placing of me in IPC in violation of the DOCS Employee's Manual and a meeting of the minds by both to cover up the misconduct of the Sgt. by deliberate indifference;
- f. FPT-11,800-04: Grievance Supervisor Ellison falsely trie to abuse me within the grievance mechanism by not sending me CORC decision' never sent to me and falsely was trying to coerce me to pay for a of CORC decision I had never received by deliberate indifference;
- g. FPT--11,799-04: Grievance Supervisor Ellison intentionally mis-coding grievances by a meeting of the minds on a issue of sexual harassment by correction officers. the improper handling of grievance was to cover-up officers misconduct by deliberate indifference;

113. Defendant L. Lauber discriminated against me by discriminatory actions in violations of Directive 4040, IGRC Training Manual, New York Corrections Law § 138, and the DOCS Employee's Manual by deliberate indifference, and gross negligence, as well as defendants Janice Henrich, and Christopher Ellison, by their deliberate indifference, and gross negligence.

114. Defendants Lauber and Napoli (Tom), ran a corrupt and illegally run grievance program at Five Points, which was condoned by defendant's Poole, T. Eagen, Commissioner Goord, Regional Grievance Supervisor and others not fully known who be be added as they become known. The superiors

of the subordinates failed to properly train, properly supervise, and improperly selected for placement in the Grievance Program at Prison by deliberate indifference and gross negligence.

115. Defendant Poole elevated Defendant's Lauber and Tom Napoli to Acting Inmate Grievance Supervisor's in violation of on "OUT OF TITLE WORK", especially when they did not have the grade, education level or / and College Degree in Criminal Justice Degree, whether a two year or four year, and Lauber was promoted in violation of her Union Contract as a Correction Officer. This was all done with the deliberate indifference and gross negligence.

116. Defendant Christopher Ellison, did not have the requisite education for the selection of Inmate Grievance Supervisor, which was done only to keep in place the undermining of the grievance program at the prison in-house by deliberate indifference with a meeting of the minds between defendants Poole, Eagen, Goord, and Regional Grievance supervisor, Jane or John Doe.

117. Defendant Ellison in a meeting of the minds with JOHN DOE IGRC SGT O'KEEFE 1-9, conspired with the Sgt. in the falsification of official DOCS Records and Grievance Records against me with deliberate indifference which was condoned by Defendant Poole, Eagen, Goord, the C.O.R.C. (Central Office review Committee-to be added as a defendant's).

118. Defendant Ellison discriminated to hid the facts of my filed grievances in denying me copies of all documents at each level of the grievance process in grievance against him by deliberate indifference.

119. Defendant Ellison and Hector Peraza (who could become a defendant also) who is a agent provocateur in a meeting of the minds worked together to undermine my grievances by deliberate indifference by the illegal manipulation of IGRC procedures.

120. Defendant Ellison with the requisite state of mind and the culpable state of mind with deliberate indifference did intentionally miscode certain grievances in a code of silence with Defendant's Lauber and John Doe IGRC Sgt's 1-9 condoned by their superiors by improper supervision in their gross negligence.

121. Defendant Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 did in fact discriminate against me in not properly following Directive 4040, IGRC Training Manual in grievances of discrimination under the Americans with Disabilities Act by deliberate indifference, while acting under color of state law.

122. Defendants Henrich is improperly trained, improperly supervised, improperly selected for Inmate Grievance Program Supervisor at Five Points Correctional Facility, in which she has poor impulse control, prior mental disease and defect, by deliberate indifference.

123. Defendants L. Lauber and Tom Napoli (Brother of Deputy Superintendent of security) were illegally promoted to Acting Grievance Supervisors by a code of silence to keep the corrupt grievance procedures ongoing because they did not have the requisite credentials, and were improperly trained, improperly supervised, and improperly selected for for such promotion, which lauber was in violation of her union contract with the state of New York by deliberate indifference and gross negligence. They both have poor impulse control and prior mental history.

#### THE NAMED PLAINTIFFS' STATUS UNDER FEDERAL LAW

124. Each of the Named Plaintiffs qualifies as disabled under the Americans with Disabilities Act and the Rehabilitation Act.

125. Defendants have denied, and continue to deny, the benefits and privileges of Due Process, Equal Protection, and Non-Discrimination within the Inmate Grievance Program at Five Points by fraudulent concealment, fraud, deceit, illegal and corrupt grievance procedures. Defendants policy violates the Americans with Disabilities Act and the Rehabilitation Act.

126. Defendants have failed to take effective and meaningful actions to redress their discriminatory grievance procedures policy notwithstanding their notice of discriminatory conditions alleged herein.

#### CLASS ACTION ALLEGATIONS

127. Plaintiffs bring this action as a class action pursuant to Rule 23(a) and (b) (2), (b) (1) (A) or (B) of the Federal Rules of Civil Procedure.

128. Named Plaintiffs represent a class of present and future inmates of Five Points who are or may become non-ambulatory and who qualify for admission as plaintiffs, or will be discriminated against, solely on the basis of their disability in receiving rights and privileges accorded to all other inmates who qualify for access to a fairly run Inmate Grievance Program without illegal, corrupt, and code of silence procedures thwarting guidelines under and within the Prisoner Litigation reform Act.

129. Due to the nature of the prison population and, therefore, the Class, joinder of all members of the class is impractical.

130. There are other inmates at Five Points classified as non-ambula-

tory (or the equivalent).

131. For Class Members to be joined individually the Court would have to find counsel for each disabled inmate and the Court would have to join individuals from other districts.

132. The question of law and fact raised by the Named Plaintiffs are common to the Class. The common factual questions include:

- A. Whether Class Members are denied due process, equal protection, by discriminatory acts within the grievance mechanism at the prison;
- B. Whether, as a result of the discriminatory acts and corruption within the grievance program, inmates are being deprived of entitlements available to other inmates; and
- C. Whether Defendants have failed to promulgate rules and procedures to accomodate the needs of non-ambulatory inmates to ensure non-ambulatory inmates' access to the grievance program without discrimination, harassment, or retaliatory acts, etc.

133. There are likewise numerous common questions of law in this case arising from Defendant's failure to act upon the clear needs and entitlements of non-ambulatory inmates, including:

- A. whether the failure to provide otherwise equal opportunity, and equal access of the Inmate Grievance Resolution Committee at Five Points Correctional facility, because the defendant's failure to adopt or adhere to administrative grievance procedures.
- B. whether the failure to provide otherwise qualified non-ambulatory inmates with access to the grievance program deprives them of procedural due process
- C. whether the Court should grant declaratory, and injunctive relief for the Class as a whole.

134. The claims of the Named Plaintiffs are typical of the claims of the Class because the challenged policies and procedures apply to all Class Members.

135. The Named Plaintiffs will fairly and adequately protect the interests of the Class.

136. The Named Plaintiffs are not represented at this beginning of the litigation by counsel. The Named Plaintiffs do not know of any conflicts of interest among Members of the Class.

136. Separate actions on behalf of individual Class Members would risk the creation of incompatible standards of conduct for the parties opposing the Class. Separate prosecutions also would create a risk of adjudication with respect to individual Class Members that would, as a practical matter, be dispositive of the rights of other person not party

to the litigation.

137. Pursuant to a New York Supreme Court Decision by, the Hon. Vincent G. Bradley, Justice of the Supreme Court, in the Matter of Fullwood v. Goord, et al., Ulster County Special Term RJI# 98-717, August 13, 1998, Defendant Goord has violated this decision and has failed to properly train, properly supervise the implementation of the Court's decision which is deliberate indifferent prisoner's and plaintiff's redress of grievance, with the improper selection, along with Grievance Supervisor's Henrich, Lauber, T. Napoli, and Regional grievance Supervisor's Jane Doe (J. Denis/Dennis deliberate indifference to improperly training, improperly supervising also the C.O. Lauber, Alternate DOCS Staff Representatives and John Doe IGRC Sgt's 1-9 by gross negligence.

137. Justice Bradley's decision stated: "DOCS Directive #4040 (VI) (J) does not prohibit petitioner from possessing a copy of the investigation report at issue. Rather, it provides only that parties other than the "grievant" must first obtain the approval of the Grievance Supervisor to obtain grievance file documents.

138. Plaintiff's West, Shariff, and Allah are deprived of the complete documentation of their filed grievances under the First Amendment, which deprives them meaningful and reasonable access to the Court under the Prisoners Litigation Reform Act by deliberate indifference by a corrupt and illegally run grievance program, which continues to this present date and time by fraudulent concealment by deliberate indifference.

139. Defendant's Janice Henrich, Lisa Lauber, Jane Doe (J. Denis/Dennis) Reg. Grievance Supervisor, John Doe IGRC Sgt.'s 1-9, Poole did with a meeting of the minds conspire against Plaintiff's West and Shariff as Inmate Grievance Representatives, which Plaintiff West was set-up for a false impeachment hearing by deliberate indifference by the deliberate indifference and gross negligence.

140. Plaintiff Shariff was coerced by the actions of the defendants actions mentioned in paragraph 139, which Plaintiff Shariff, while under duress resigned as a Inmate Grievance Representative at Five Points by defendants deliberate indifference and gross negligence.

141. Plaintiff James West was escorted from the Inmate Grievance Program Office in the Activity Building on October 21, 2003, approximately, at 1:30 p.m., at Five Points, with inmates present, along with Sgt. Parrish, L. Lauber, as defendants, and Henrich whom knew about it by their deliberate indifference.

142. Plaintiff West was informed that he was being Program Restricted at the present time from the Inmate Grievance Resolution Committee Program on the afternoon in being escorted from the IGRC Office on the 21st Day of October, 2003, approximately.

143. Thereafter, the Plaintiff West received false charges filed Defendant Janice Henrich and L. Lauber, which led up to these false proceedings in violation of Section 3.4 Falsification of Records, of the DOCS Employee's Manual by deliberate indifference.

144. Plaintiff was served with false charges as a Inmate Grievance Representative in violation of New York Corrections Law § 138 as retaliation for his complaints of a corrupt and illegally run grievance program with false investigation by Lauber, Henrich, John Doe IGRC Sgt.'s 1-9, Jane Doe (J. Denis/Dennis by a meeting of the minds in furtherance

of a conspiracy by concerted acts by deliberate indifference.

140. Plaintiff West received a perfunctory charges of him impeachment hearing that were supposed to follow the Tier III procedures of the Directive 4932, and Title 7 / 7 N.Y.C.R.R. by a correction officer from the facility disciplinary office.

141. Plaintiff was written up for violations of B, E, F, and G of IGRC CODE OF ETHICS, AS LISTED BELOW:

B. A willing and tactful attitude is required in the performance of a member's duties.

E. Members shall not disclose information of a confidential nature except where necessary in fulfilling their duties under the grievance mechanism.

F. Members shall be responsible for safekeeping grievance files and ensuring against unauthorized use.

G. No member of the IGRC shall intentionally undermine the IGRC's operation or credibility.

142. Plaintiff West was not cited for subdivisions A, C, D, H, and I by the grievance supervisor.

143. Mr. Pittman, Vocational Instructor, was assigned as the Inmate Assistant to Plaintiff West for the alleged false "Impeachment Hearing, which was not completed before the start of the hearing on October 27th, 2003, by Deputy Supt. of Security Napoli by deliberate indifference, in violation of 7 N.Y.C.R.R., Title 7 and Directive 4932 Inmate Assistance, pursuant to § 254.6 (a).

144. Plaintiff West contends that the Employee Assistance ended on November 3, 2003 by Mr. Pittman. But the hearing was started by Napoli on October 27, 2003 by deliberate indifference of Napoli, who was biased towards plaintiff.

145. Plaintiff West was denied a fair and impartial Investigatory Assistance by his Inmate Assistant, pursuant to 7 N.Y.C.R.R. § 253.3 (a) and (b) by deliberate indifference of Hearing Officer Napoli.

146. Plaintiff West contends that the lack of proper Inmate Assistance was by the interference by hearing officer Napoli obstructing the plaintiff's statutory rights to due process and equal protection by bias in his deliberate indifference with gross negligence.

147. Defendant Napoli's conduct towards the inmate assistance denied and interfered with denied plaintiff West a fair and impartial hearing by bias hearing officer with deliberate indifference.

148. Defendant Napoli denied plaintiff Witnesses in violation of Title 7, 7 N.Y.C.R.R., and Directive 4932, which would not have jeopardized institutional safety or/and security by his deliberate indifference towards plaintiff West. No real valid reasons for denial of witnesses.

149. Defendant Napoli denied Plaintiff West documentary evidence to prepare his defense in violation of well established law of the United States Court of Appeals, Second Circuit's decision of Colon v. Coughlin, because the defendant had predetermined Plaintiff's guilt in advance of the hearing because of a meeting of the minds with defendant Poole who had assigned him to be the hearing officer, which he could not go against in furtherance of a conspiracy.

150. Defendant Napoli by deliberate indifference failed to interview



inmate witnesses who refused to testify at the impeachment hearing on 10-27-2003, nor did the hearing officer record the inmate's who refused to testify or the officer on the hearing record why inmates A. Gray # 88B2613, H. Peraza # - 8 Block, W. Flores - 11 Block refused to testify at plaintiff's impeachment hearing by gross negligence of the hearing officer.

151. Plaintiff West was taken to a hearing wherein he was denied procedural due process by the Hearing Officer Napoli who curtailed my questioning of defendants Henrich and Lauber, and allowed them to lie during all times of their appearance at the impeachment hearing.

152. Plaintiff was tried by unrecorded confidential information the hearing officer defendant received from defendant Lauber without evaluating the credibility of the confidential source. Defendant's both got together off of the record after I left the hearing room which was recorded on the hearing record way after defendant lauber's testify was so deliberately indifferent to deny plaintiff a fair and impartial hearing and due process.

153. Pertinent questions of defendants Henrich, Lauber and all IGRC Sgt's at impeachment were arbitrary and capriciously denied wherein the hearing officer (Defendant Napoli) would dovetail his questions to be a pro-administration prosecutor, wearing two hats was deliberate indifference.

154. Plaintiff West's impeachment was a perfunctory one without due process and equal protection of the law by the deliberate indifference of Defendant Napoli's meeting of the minds with henrich, Lauber, John Doe IGRC Sgt.'s 1-9, and defendant Poole.

155. Defendant Napoli denied plaintiff specific documentation on the specificity of Notice of the charges and quantification of them by the deliberate indifference, which plaintiff was told to wait until Henrich testifies to cure it, which I objected.

156. Plaintiff West objected to the bias, failure to be impartial by defendant napoli at the hearing by defendants deliberate indifference towards plaintiff and failure to allow Plaintiff West to put forth his defense by Napoli's unfairness and arbitrary decisions against plaintiff West.

157. Plaintiff request the production of hearing records to prove that he was not action in a adversarial manner at IGRC hearing which was arbitrarily and capricious denied by deliberate indifference by hearing officer defendant Napoli denying West a fair hearing.

158. Defendant Napoli at all times relevant ridiculed plaintiff an interrupted plaintiff in his questioning of witnesses at impeachment in a deliberate indifferent manner portraying his bias in a sarcastic and hostile demeanor in violation of DOCS Employee's Manual.

159. Defendant Napoli would interrupt my questioning of witnesses to help DOCS Employee's (defendants Lauber, Henrich, John Doe IGRC Sgt.'s 1-9 by and with deliberate indifference to thwart an effective questioning so defendant witnesses could evade questions and falsify answers.

160. That when Plaintiff West would ask questions the defendant Napoli would ask witnesses if Plaintiff was a Doctor in a sarcastic manner with gross negligence and deliberate indifference.

161. Plaintiff was deprived of the opportunity to litigate his claim fully and fairly before defendant Napoli and Selsky. First, Plaintiff was

entitled to have his impeachment hearing under the Tier III disciplinary procedure reviewed by an unbiased hearing officer. Because the exchanges and objections as to defendant Napoli's action, behavior and conduct at all times relevant to the whole hearing indicates Napoli was biased with deliberate indifference.

162. Plaintiff's West defense was that false charges were filed against plaintiff in violation of filed grievance in violation of N.Y. Corrections Law § 138, which there were reprisals for filing grievance in violation of the statutory laws of New York by gross negligence and deliberate indifference because defendant Napoli could not keep an open and impartial mind if Correction Officer and Grievance Supervisor, along John Doe IGRC Sgt.'s 1-9 was capable of filing false charges.

163. Defendant Napoli's response to plaintiff West, was "I believe the or that staff here is professional and I don't think anyone would deal along those lines was deliberate indifference and knowing or reasonable failure towards his bias.

164. Where defendant Napoli as a hearing officer indicates on the record that, without considering the evidence, he finds a prisoner's factual defense inconceivable cannot be concluded that Plaintiff West had a full and fair opportunity to litigate the issue of his defense because a pre-determination by defendant that Plaintiff West was guilty in advance by deliberate indifference with gross negligence and a meeting of the minds in furtherance of a conspiracy to deprive plaintiff his procedural due process.

165. Defendant Napoli denied Plaintiff named witnesses list that was provided to him through Inmate Assistant Fred Pittman, which was a part of a seven page document request for assistance prior to hearing, Plaintiff West was denied inmates J. Garner #91B2138, K. Hobbs #90C1352, D. Hauk (Huck), which Plaintiff was not provided with a witness denial slip for these witnesses by denial of due process by deliberate indifference.

166. Prior to Plaintiff West's impeachment hearing a letter was written to Defendant Donald Selsky where copies were sent to appropriate individuals and agencies, which put defendant of NOTICE of Violations of Directive 4932 that he had personal knowledge through the and Appeal which he was deliberate indifferent to in a meeting of the minds by his inaction to take corrective, remedial and admin. or disciplinary action.

167. Plaintiff West was found guilty at Impeachment hearing by the defendant Napoli with deliberate indifference, denied Plaintiff a right to be a Inmate grievance Representative for three (3) years by his gross negligence in furtherance of a conspiracy.

168. Plaintiff West was not written up for a ny Disciplinary Misbehavior Report because of the Conditional Discharge Order for James West, made by Judge Robert J. Ward, U.S. District Judge, Southern District of New York, Foley Square, New York, New York, which stated that in the event the custody status change for West occurs that the Court must be notified in 48 hours, which the defendants knew of and did not want investigated by a Federal Judge. So they went the route of only a impeachment hearing by deliberate indifference

169. Plaintiff filed a appeal of the guilty adjudication to the defendant Glenn S. Goord, who has designated defendant Donald Selsky to act in his place. But with personal Knowledge of the facts and avers of Plaintiff of the matter which gives rise to this action by his deliberate indifference.

170. Defendant Donald Selsky condoned the deliberately indifferent decision of Defendant Napoli by his inaction to take corective, remedial, or disciplinary action by a meeting of the minds in intentionally failing to well established law and Section 2.2 Lawful Comportment of DOCS Empl-oyee's Manual, to act in concert ti inflict a unconstitutional injury, an overt act done in furtherance of that goal causing damages.

171. Defendant Selsky knew or reasonable should have known that a prisoner's impeachment hearing following the rules of the Tier III procedures were not supposed to start until the Inmate assistance has been completed, which by his inaction to take corrective action and stand still doing nothing about the procedural due process joined into the meeting of the minds with defendant Napoli by deliberate indifference against Plaintiff West in violation of his constitutional rights.

172. That, pursuant to Directive 4040, IV. Inmate Grievance Resolution Committee (IGRC), subd. E. Removal of Inmate Representatives. It states at page 4 Of 14, 1. Defendant henrich of Poole is responsible for notifying the following area's of an inmate's status as an IGRC Re-presentative within 24 hours of his election or appointment. 3. The def-endant Henrich or Poole is responsible for notifying the individuals cited in Section IV-E-1 (Firstly, Director of Inmate grievance Program.

173. Defendant Napoli's denial of defendant's Goord, Bernardi, Eagen, and Annucci were aware of of the grievance I file on a corrupt an illegal-ly run grievance program at Five Points because these defendant's sit on the C.O.R.C. (Central Office Review Committee) for the Grievance Program, and it was deliberately indifferent for defendant to falsely or falsify DOCS Official Witness Interview Notice sheet. That, no witness was ever interviewed, and I was denied witnesses who could have been in mitigation also.

174. Defendant Poole in a meeting of the minds with Defendant Napoli because defendant Poole answered a number of my grievance of improper grievance procedures, corruption, and illegally run grievance program, which goes to say that Defendant Poole knew about the issues. But, beca-use Poole designated Defendant Napoli as the hearing officer, defendant Napoli could not take a position opposite of what defendant Poole wanted which was deliberate indifference.

175. Defendant Napoli was on the witness list and should have re-cused himself because he was aware of the issue of my grievances on the corrupt grievance program at Five Points, But, by his deliberately in-different action and attitude did not.

176. Defendant Napoli knew or reasonably knew of Weingartners inves-tigation of Code 49 grievance on a corrupt grievance program, illegally run grievance program, improper procedure used in grievance program that Plaintiff West filed against defendant Lauber, Henrich, John Doe IGRC Sgt.'s 1-9, regional Grievance Supervisor, Successor's and others not fully known who is intended to be added as they become known by their deliberate indifference. The reason for te denial of Weingartner was a falsification of DOCS records in violation of Section 3.4 of the DOCS Employee's Manual.

177. Defendant Napoli discriminated againts me in violation of the Americans with Disabilities Act in the discriminating Impeachment proc-edures utilized against me ina deliberate indifference with gross negli-gence , which violates the other rights, privileges and immunities.

178. Defendant Napoli and Poole (defendant) in a meeting of the minds did not want theirsuperiors in the DOCS Central Office to know what was occurring at Five Points Grievance Program by deliberate indifference.

179. Defendant Napoli denied prisoner Hauk (Huck-phonetics) as a witness which was crucial and others without providing me with slip or form denying a number of witness by deliberate indifference. This occurred for other witnesses denied and Defendant Selsky failed to take any corrective, remedial, administrative, nor disciplinary action, and by his inaction Selsky is saying that whatever Napoli does is alright with him by gross negligence.

180. Prisoner Hauck was a important witness because defendant L. Lauber and Sgt. Pabon filed a falsification of DOCS records against me using fraudulent information by twisting it to their own evil designs for a false Informal or/and Formal write-up by deliberate indifference and a meeting of the minds in furtherance of a scheme or design against Plaintiff West.

181. Plaintiff has claims that the defendant Goord, C.O.R.C. (and its Members), T. Eagen, Jane Doe (J. Denis/Dennis) failed to properly supervise the properly functioning of the Inmate Grievance Program at Five Points by deliberate indifference, after being informed of the violations with the prisons grievance program and failed to take corrective, remedial, nor disciplinary action by his action they have all joined into the very conduct complained of.

182. The defendants named in paragraph 181, created a defacto policy or custom under which unconstitutional practices occurs or allowed the continuance of such of such a corrupt, illegally run grievance program with improper and illegal procedures in a illegal custom/usgae. The defendants exhibited deliberate indifference to the rights of all of the disabled plaintiffs by failing to act on information indicating that unconstitutional acts were occurring, and allowing false cover-ups.

183. Since the deletion of the State Commission from the Inmate Grievance Program as the last resort to exhaustion there has been not fairness in the grievance program except for the deliberate indifference, an grossly negligent conduct, actions and behavior as complained of by the defendants.

184. Since the deletion of the State Commission of Correction from the Inmate Grievance Program there has been no impartiality, more of a Code of Silence between Department of Correctional Services Employee's by their deliberate indifference.

185. That, the State Commission of Correction was more investigative into the facts of a scenario than the DOCS, Commissioner, or C.O.R.C. et cetera without deliberate indifference. But, more even handed or being balanced.

186. The New York State Department of Correctional services has done more to undermine and run rough shod over the grievance program at the prison with deliberate indifference with the correction officer's union.

187. Defendant's Goord, C.O.R.C. (Deputy Commissioners), T. Eagen, Regional Grievance Supervisors, Inmate grievance Program Supervisors know that IGRC Staff Correction Officers are to rotate every six (6) months in the grievance program except Five Points by deliberate indifference.

188. That, Deputy Commissioners Anthony J. Annucci, Dr. Lester Wright, Charles M. Devane, Lucien J. Leclair, Jr., Frank Headley, an Defendant Stephan Bernardi are the C.O.R.C. (Central Office Review Committee) for for the New York State Dept. Correctional Services, for the Inmate Grievance Program, who had personal knowledge of my complaints of the grievance program at Five Points, which by their inaction covered up the corruption of their subordinates and intentionally failed to take corrective, remed-

ial, administrative, and disciplinary action. They are intended to be defendants to this Civil Action, which they are now on NOTICE because of their deliberate indifference and gross negligence for condoning such illegally run grievance program, in which Defendant Goord failed to properly supervise them, properly train them and the improper selection, and poor impulse control, or/and mental defect.

189. Plaintiff's West, Shariff, and Allah intend to add other DOCS employee's as defendants as listed below:

1. Kathleen Case, Secretary, 2. Jeffrey Minnerly, Plant Supt., 3. Paul Ranis, John Arcidiacono, 4. Rodney Renadette, Correction Counselor, 5. Thomas Napoli, Rec. Program Leader 1, 6. Thomas Napoli, Rec. Program Leader 1, 7. Rodney Renadette, Correction Counselor, 8. Kim Wood, I.R.C., 9. Nancy )'Connor (Reyerson), Nurse Administrator, 10. Judy Brignall, Keyboard Specialist 1 for their violation of the Directive 4040 of the Inmate Grievance Program and deliberate indifference in a meeting of the minds with Defendant Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 in undermining the grievance procedures and decisions by the a Code of Silence.

190. That, the administration of matters complained of herein, was jointly shared by the defendants Goord, C.O.R.C. (deputy Commissioners), T. Eagen, Jane Doe (J.Denis/Dennis) or Successor's in Office, Henrich, John Doe IGRC Sgt.'s 1-9, IGRC Staff Officer's Lauber, and such other former IGRC Staff Officers: Williams and Davis, at all times times in the action, conduct and havior as complained of herein.

200. Defendants in a concerted and systematic efforts failure to adhere to Administrative Grievance Procedures, discriminates against disabled prisoners in violation of the Americans with Disability Act, Title VII Job Discrimination, improper grievance procedures, violation of Confidentiality of grievance records, Falsifying Informal/Formal write-up for harassment, racially motivated, discrimination, retaliation, Revenge in violation New York Corrections Law § 138.

#### COUNT I

201. The Named Plaintiffs repeat and reallege the allegation in paragraphs \_\_\_\_\_ of this complaint.

202. The Named Plaintiffs and the Class Members are qualified individuals under the ADA.

203. The Named Plaintiffs and the Class Members have been discriminated and ecluded from Their Job as Inmates Grievance Representatives, and denied the benefit based soley upon their disabilities.

204. Defendants failure to provide non-ambulatory Five Points inmates with non-discriminatory access to a effective and properly running Grievance Program without improper grievance procedures, falsification of official Department Records, violation of Confidential of grievance records, job discrimination, proper grievance investigations, manipulation of grievance procedures by a CODE OF SILENCE, menacing under the Penal Laws of the State of New York, false reports in furtherance of an conspiracy against protected conduct, such that they are excluded from participation in, and denied the benefit of services, program activities of Five Points constitutes discrimination on the basis of their disability in violation of § 202 of the ADA, and the regulations thereunder.

205. Pursuant to the following, defendants violated Grievance Procedures of the 1998 Directive 4040, and Directive 4040 of 2003, below;
- a. Harassment Grievance;
  - b. Unlawful Discrimination Grievances;
  - c. Advisor;
  - d. Direct Party;
  - e. Non-Grievable Issue, etc.;
  - f. Visitor Complaints;
  - g. Outside Agencies Excluded;
  - h. Reasonable Accommodations;
  - i. IV. Inmate Grievance Resolution Committee (IGRC);
  - j. Removable Of Inmate Representatives;
  - k. Staff IGRC Representatives;
  - l. Representatives' Job Duties;
  - m. IGRC Chairperson selection;
  - n. Grievance Clerks;
  - o. V. Procedures. (A) (1);
  - p. Informal Resolution;
  - q. IGRC Hearing;
  - r. Committee decision/recommendation
  - s. Second Step, Appeal to Supt.;
  - t. Third Step, Appeal to Central Office Review Committee (CORC);
  - u. VI. Procedural Safeguards;
  - v. IGRC Access/Movement Within The Institution;
  - w. IGRC Interviews of Employee's;
  - x. Code of ethics and Time Limits;
    - 1. File Maintenance/Confidentiality;
    - 2. Emergencies;
    - 3. VII. Procedures For Inmates In Special Housing Units;
    - 4. VIII. Harassment Grievances;
    - 5. IX. Allegations of Unlawful Discrimination Grievances;
  - y. I.G.R.C. TRAINING MANUAL:
  - z. Orientation;
    - 1. Job Discrimination.
    - 2. Violation of Correction Law § 139 and
    - 3. Violation of Correction § 112 & Administrative Procedure Act.

COUNT II

REHABILITATION ACT CLAIM

206. The Named Plaintiffs repeat and reallege the allegations contained in paragraphs ~~34-123, 131-200~~ of this Complaint.

207. The Named Plaintiffs and the Class Members are qualified individuals under the Rehabilitation Act.

208. The Named Plaintiffs and the Class members have been excluded from, and denied the benefit of, the effective, fair, and impartial or / and impartiality of Grievance Program at Five Points pursuant to meaningful and reasonable access to the Courts under the First Amendment to the United States Constitution.

209. Defendants' failure to provide effective, fair, impartial or / and impartiality of Grievance Program at Five Points, to non-ambulatory Five Points inmates with access, as such that they are excluded from the full opportunity and equal access in, and denied the benefit of, such programs and activities, constitute discrimination on the basis of the handicap in violation of § 504 of the Rehabilitation Act, and regulations promulgated thereunder.

COUNT III

TITLE VII OF THE CIVIL RIGHTS ACT OF

1964, AS AMENDED, 42 U.S.C., § 2000e et seq.

210. The Named Plaintiff's West and Shariff repeats and realleges the allegations contained in paragraphs ~~34-123, 131-200~~ of this Complaint.

211. The Named Plaintiffs and the Class Members are qualified individuals under Title VII, 42 U.S.C., § 2000e.

212. The Named Plaintiffs and the Class Members have been excluded from being Inmate Grievance representatives by Employee Discrimination, Employee Retaliation, Harassment, Racially Motivated Harassment, subject to unfair treatment, discrimination based upon race, color, sex, religion, national origin, age or disability in violation of Title VII of the Civil Rights Act of 1964, as Amended, 42 U.S.C., § 2000e.

213. Defendants' failure to provide non-ambulatory Five Point inmates with access to Inmate Grievance Representatives without Employee Discrimination, Employee Retaliation, Employee Harassment, and Job Discrimination in violation of Title VII, and First and Fourteenth Amendment Rights to the United States Constitution, New York State Constitution, of guaranteed privileges and immunities, such that they are excluded from participation in, and denied the benefits of services, programs and activities of Five Points constitutes discrimination on the basis of disability in violation of Title VII.

COUNT IIII

PROCEDURAL DUE PROCESS CLAIM

214. The Named Plaintiff repeat and allege the allegations contained in paragraphs 34-123, 137-200 of this Complaint.

215. Defendants' policy, practice, and custom and usage of denying non-ambulatory Five Point inmates access to Inmate Grievance Program, which fails to adhere to Directive 4040, administrative grievance procedures that does not fail to adopt Section 2.2 Lawful Comportment of the DOCS Employee's Manual, constitutes defendants violation of job discrimination, employment discrimination, ADA ACT, REHAB. ACT violations, under color of state law, of non-ambulatory inmate's due process rights in violation of the Fourteenth Amendment to the United States Constitution, U.S. Const. amend. XIV, 42 U.S.C. §1983, §1985(3), §1986, Title VII 2000e.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court:

1. Certify, pursuant to Rule 23(a) and (b)(2), (b)(1)(A) or (B) of the Federal Rules of Civil Procedure, That this action may be maintained as a class action;

2. Enter a judgment pursuant to 28 U.S.C. §2201 and Rule 57 of the Federal Rules of Civil Procedure, declaring that Defendants' failure to adhere to Grievance Procedures, and provide fair and impartial equal opportunity and equal access to, with discrimination to the grievance program, without job discrimination, ADA ACT and Rehabilitation Act, discrimination, nor violations, to the Named Plaintiffs and the Class constitutes unlawful discrimination in violation of the Rehabilitation Act, the ADA Act, Title VII of 42 U.S.C. 2000e, the Fourteenth Amendment to the United States Constitution, U.S. Const. amend. XIV and 42 U.S.C. §§ 1983, 1985(3), and 1986.

PLAINTIFFS, further request that the Court grant the following:

A. Issue a declaratory judgment that the defendants violated the United States Constitution, New York State Constitution, state and Federal Law in their failure to:

1. Defendant Goord, failed to properly train, properly supervise, and properly select DOCS Employee's working in the grievance program at Five Points, as to defendants Jane Doe (Denis/Dennis (Reg. grievance Supervisor), J. Henrich, Lisa Lauber, John Doe IGRC Sgt.'s 1-9.

2. Defendant Goord, failed to to take corrective action, remedial action, Administrative, nor disciplinary action in the in the fraudulent concealed corrupt, illegal, and improperly run grievance program at the prison from 2000 to the present.

3. Defendant Goord, failed to properly supervise Thomas Eagen, Dir.



of the Inmate Grievance Program at Five Points Correctional Facility, which they failed to adhere to the administrative grievance procedures.

4. Defendant Goord, failed to properly supervise the C.O.R.C. (CENTRAL OFFICE REVIEW COMMITTEE) for failint to adhere to administrate grievance procedures in the running of a corrupt, illegally run grievance program with improper procedures after numerous grievances and did cover-up perfuntor investigations by a meeting of the minds.

5. Defendant Goord, failed to properly supervise the Regional Grievance Supervisor Jane Doe 1 and successor's in office thereafter by his inaction to take corrective, remedial, administrative, and disciplinary action, which he joined into by his inaction.

6. Defendant Goord, failed to properly supervise Defendant Poole from discrimination, retaliation against disabled Inmate Grievance Representatives in their jobs in violation of Corrections Law § 138, ADA ACT, Title 7 Job Discrimination, and Racially Motivated Harassment.

7. Defendant Bernardi, Deputy Commissioner, Compliance & Review, failed to take corrective, remedial, adminiatrative, nor disciplinary action against Defendant'Jane Doe 1 Reg. grievance Supervisor, J. Henrich, L. Lauber, and John Doe IGRC Sgt.'s 1-9, and T. Poole for improper grievance procedures by a meeting of the minds, which he joined into by his inaction in failing to adhere to the IGRC Training Manual, Directive 4040 1998, and Directive 4040 2003, and State and Federal Law, privileges, immunities, and rights.

8. Defendant Bernardi, failed in Compliance and Review, allowed the discrimination, Job Discrimination, ADA ACT and REHAB ACT violations against disabled Inmate Grievance Representatives and a corrupt inmate grievance program at Five Points.

9. Defendant Poole, failed to properly supervise the proper adherence to the IGRC Training Manual, Directive 4040 (1998), and Directive 4040 (2003), by his undermining the grievance program at the prison.

10. Defendant Poole, failed and allowed a corrupt, and illegally run grievance program at the prison for years in a Code of silence with J. Henrich, L. Lauber, Jane Doe 1 Regional grievance Supervisor, and John Doe IGRC Sgt.'s 1-9, which employed improper grievance procedures.

11. Defendant Poole, allowed the false investigations of grievances to cover-up misconduct, falsification of grievance records, and the intentional violations of Confidentiality of grievance records. As well as false impeachment proceedings as a means of retaliation against IGRC

Inmate Grievance Representatives who are disabled by a meeting of the minds with defendants Henrich, Lauber, John Doe IGRC Sgt.'s 1-9.

12. Defendant Poole, failed to adhere to Directive 4040 (1998) and Directive 4040 (2003), in the thwarting disabled inmates grievance representatives protected conduct in performing their jobs and denial of grievants due process rights with meaningful and reasonable access within the grievance process by discrimination.

13. Defendant Poole, failed to insure that grievances were being investigate in fairly and impartially without a code of silence in cover-ups by correction officer's and their agents in the grievance program at the prison.

14. Defendant Poole, discriminated against Inmate Grievance Representatives more differently in extra procedure to do their work and catch up on their work. But was deliberately indifferent with gross negligence towards the Plaintiffs who were disabled and Inmate Grievance Representatives.

15. Defendant Poole, allowed a defacto discriminatory process in deciding grievance for inmates in the S.H.U. UNIT (Special Housing Unit) as to grievance investigations and the hearing process.

16. Defendant Poole, in a meeting of the minds with the Grievance Supervisor, Correctional Guard (Officer), and John Doe IGRC Sgt.'s 1-9 conspired to undermine the grievance program in violation of the IGRC Training Manual, and Directives 4040 for 1998 and 2003.

17. Defendant Eagen, failed to properly train, properly supervise, and improperly selected Jane Doe #1 (Denis/Dennis), as a Regional grievance Supervisor, Janice Henrich as the Inmate Grievance Program Supervisor, L. Lauber as a Grievance Staff Officer, and John Doe IGRC Sgt.'s 1-9 for working in the Grievance Program Office at the Five Points prison, and other prior officer's , Sgt.'s and civilian(s).

18. Defendant Eagen, allowed a corrupt, and illegally run Inmate Grievance Program at the prison since its opening in 2000 to present time, inwhich he failed to take corrective action, remedial action, disciplinary action, and administrative action against those named in paragraph 17, which condoned a defacto policy, custom and usage that was contrary to the IGRC Training Manual, Directives 4040 (1998 & 2003), and Corrections Law, Section 139.

19. Defendant Eagen, failed to properly supervise the Grievance Program at Five Points by deliberate indifference and gross negligence and

Inmate Grievance Representatives who are disabled by a meeting of the minds with defendants Henrich, Lauber, John Doe IGRC Sgt.'s 1-9.

12. Defendant Poole, failed to adhere to Directive 4040 (1998) and Directive 4040 (2003), in the thwarting disabled inmates grievance representatives protected conduct in performing their jobs and denial of grievants due process rights with meaningful and reasonable access within the grievance process by discrimination.

13. Defendant Poole, failed to insure that grievances were being investigate in fairly and impartially without a code of silence in cover-ups by correction officer's and their agents in the grievance program at the prison.

14. Defendant Poole, discriminated against Inmate Grievance Representatives more differently in extra procedure to do their work and catch up on their work. But was deliberately indifferent with gross negligence towards the Plaintiffs who were disabled and Inmate Grievance Representatives.

15. Defendant Poole, allowed a defacto discriminatory process in deciding grievance for inmates in the S.H.U. UNIT (Special Housing Unit) as to grievance investigations and the hearing process.

16. Defendant Poole, in a meeting of the minds with the Grievance Supervisor, Correctional Guard (Officer), and John Doe IGRC Sgt.'s 1-9 conspired to undermine the grievance program in violation of the IGRC Training Manual, and Directives 4040 for 1998 and 2003.

17. Defendant Eagen, failed to properly train, properly supervise, and improperly selected Jane Doe #1 (Denis/Dennis), as a Regional grievance Supervisor, Janice Henrich as the Inmate Grievance Program Supervisor, L. Lauber as a Grievance Staff Officer, and John Doe IGRC Sgt.'s 1-9 for working in the Grievance Program Office at the Five Points prison, and other prior officer's , Sgt.'s and civilian(s).

18. Defendant Eagen, allowed a corrupt, and illegally run Inmate Grievance Program at the prison since its opening in 2000 to present time, inwhich he failed to take corrective action, remedial action, disciplinary action, and administrative action against those named in paragraph 17, which condoned a defacto policy, custom and usage that was contrary to the IGRC Training Manual, Directives 4040 (1998 & 2003), and Corrections Law, Section 139.

19. Defendant Eagen, failed to properly supervise the Grievance Program at Five Points by deliberate indifference and gross negligence and

allowed the job discrimination, threats, harassment, racially motivated harassment, and false impeachments of Inmate Grievance Representatives in violation of Corrections Law § 138 by gross negligence, which can only mean that by defendants inaction means that he has joined into a meeting of the minds with Jane Doe #1, Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 and other and prior officer's, Sgt.'s, and covilian's DOCS employee's.

20. Defendant Eagen, failed to properly provide inmates/prisoners at Five Points due process within the grievance mechanism which resulted in falsification of grievance records, which included false investigations condoned by defendants Poole, Henrich, Lauber, John Doe IGRC Sgt.'s 1-9 and others and prior IGRC DOCS Staff Employee's not fully known, to be later added.

21. Jane Doe (Denis/Dennis-phonetics, Regional Grievance Supervisor, failed to properly supervise Inmate Grievance Program Supervisor, in the proper functioning of the Inmate Grievance Program at Five Points which was deliberately indifferent to due process, which failed to adhere to administrative grievance procedures, pursuant to IGRC Training Manual, Directives 4040 (1998) and Directive 4040 (2003), and Corrections Law.

22. Jane Doe (Denis/Dennis, knew and failed to to correct, take any corrective action, remedial action, administrative action, nor disciplinary action against defendants henrich, lauber and IGRC Sgt.'s 1-9 for improper and false grievance procedures against inmates grievances that thwarted the Prisoners Litigation Reform Act, by defendant.

23. Jane Doe (Denis/Dennis) failed to take administrative action against defendant Poole's defacto policies, custom and usage in contradiction of the IGRC Training Manual, Directives 4040 (1998 & 2003), and Corrections Law, et cetera., which by defendant inaction means that she joined into a meeting of the minds with them, by defendant.

24. Jane Doe (Denis/Dennis) failed and condoned the violation of Confidentiality of grievance records by other DOCS Employee's in a meeting of the minds with defendant Henrich's enacting such illegal policy, condoned by defendant.

25. Defendant Jane Doe (Denis/Dennis) allowed the improper grievance procedures by members of the Officer's Union in a Code of Silence to undermine the grievance program at Five Points and did nothing to take any corrective action, remedial action, nor administrative action by her deliberate indifference, in violation of Directive 4040 (1998 & 2003), the IGRC Training Manual and Corrections Law.

26. Defendant Jane Doe (Denis/Dennis Regional Grievance Supervisor) failed to supervise Title VII violations against the disabled Inmate Grievance Representatives by Henrich, Lauber, and John Doe IGRC Sgt.'s 1-9, which she failed to take corrective, remedial, administrative action, nor disciplinary action, therefore joining into the very conduct complained of by gross negligence and deliberate indifference.

27. Defendant Jane Doe (Denis/Dennis) Regional Grievance Supervisor condoned and implemented a inadequate investigation procedure for the grievance program at Five Points which greatly undermined the program which she knew or should have known of that falsified grievance records that deny due process within the Prisoners Litigation Reform Act.

28. Defendant Janet Henrich, Inmate Grievance Program Supervisor was at all times relevant improperly trained, improperly supervised and improperly selected for her job as I.G.P. Supervisor at Five Points by deliberate indifference.

29. Defendant Henrich retaliated against Plaintiff's West and Shariff for filing grievances against her, Lauber, John Doe IGRC Sgt.'s for the corrupt and illegal grievances procedures in violation of the IGRC Training Manual, Directive 4040 (1998) and Directive 4040 (2003).

30. Defendant Henrich created a hostile working environment for the Plaintiff's for whistleblowing on improper, corrupt, and illegal grievance procedures in which inmate grievants were being due process within the grievance mechanism. The Hostile working environment was in violation of Title VII, by harassment, racially motivated harassment, discrimination and discriminatory acts against the disabled Plaintiff's Shariff and West by deliberate indifference.

31. Defendant Henrich, conspired with Lauber and John Doe IGRC Sgt.'s 1-9 in the false impeachment of Plaintiff West for his grievance complaints against her, Lauber and IGRC John Doe Sgt.'s et cetera which conduct was protected by well established law, which Defendant Poole, Napoli and a few others played a role in by deliberate indifference and gross negligence.

32. Defendant Henrich implemented a false and a illegal procedure for selection for IGRC Chairpersons, which was illegally condoned by defendant Poole, Goord, Eagen, and the C.O.R.C. (Deputy Commissioners, etc.) by deliberate indifference in undermining the grievance program.

33. Defendant Henrich, illegally passed her areas of responsibility on or over to Plaintiff's West and Shariff which she falsely wrote Inform-

mals with false information against Plaintiff's West and Shariff in saying that we were slow in our work assignments by deliberate indifference with gross negligence.

34. Defendant Henrich, threatened and harassed plaintiff's West and Shariff in violation of Section 138, Corrections Law by retaliatory means for our written and oral complaints against her Lauber and others.

35. Defendant Henrich discriminated against Plaintiff's West and Shariff because of our race, cred, color, national origin and social status because of racial preferences she used in prior employment at Elmira Corr., Facility by deliberate indifference.

36. Defendant Henrich discriminated and retaliated against the Plaintiff's West and Shariff in making plaintiffs do Lauber and John Doe IGRC Sgt.'s work in violation of IGRC Training Manual, Directive 4040 (1998), Directive 4040 (2003) by deliberate indifference

37. Defendant Henrich improperly trained grievance clerk's in the always telling clerk's to get inmates to sign off on grievances in violation of Training Manual and Directive 4040 (1998 & 2003) by gross negligence.

38. Defendant Henrich conspired with Nurse's Administrator to file false responses to inmate grievances in violation of IGRC Training Manual and Directive 4040 (1998 & 2003), Section 139, of the New York Corrections Law, and other Nurse Administrator's by her deliberate indifference.

39. Defendant Henrich violated the confidentiality of grievance records, in which persons other than defined in Directive 4040 (1998 & 2003), IGRC Training Manual had illegal access to by her gross negligence and deliberate indifference in a meeting of the minds.

40. Defendant Henrich threatened plaintiff's West & Shariff and retaliated against them for refusing sell their integrity as Inmate Grievance Representatives in their job description by deliberate indifference.

41. Defendant Henrich, at all relevant times conspired with a meeting of the minds with defendants Poole, Eagen, Lauber, John Doe IGRC Sgt.'s 1-9 and others in undermining the grievance program at the prison with the knowledge of the Defendant Goord, and the C.O.R.C.

42. Defendant L. Lauber, violated Directive 4040 (1998 & 2003), the IGRC Training Manual, and Sections 138 & 139 of N.Y. Corrections Law in her retaliation against Plaintiff's West & Shariff, illegally by

deliberate indifference and gross negligence.

43. Defendant Lauber, was improperly trained, improperly supervised, and improperly selected for her job as Staff IGRC Officer at the prison by deliberate indifference. Her superior's knew she had poor impulse control and mental disease and defect.

44. Defendant Lauber implemented discriminatory rule with others against the disabled Plaintiffs West and Shariff in violation of the ADA ACT, Title VII, Departmental Directives, Traininf Manuals and well established law by deliberate indifference.

45. Defendant Lauber, created a hostile working environment for Plaintiffs West and Shariff because they blew the whistle on her and others for corrupt, illegal, improper grievance procedures that were undermining the grievance program and retaliated against them with falsely written DOCS official records for retaliatory means in a meeting of the minds with others.

46. Defendant Lauber, in a meeting of the minds was allowed to implement her own illegal rules and procedures in the grievance program at the prison with the defendant Henrich by deliberate indifference.

47. Defendant Lauber, and John Doe IGRC Sgt.'s 1-9 filed false grievance decisions in a aversarial and pro-administration way at all times relevant to this action by a meeting of the minds.

48. Defendant Lauber, at all relevant times was a conduit for her union members and husband while in the grievance program office, which she made calls and leaked information to fellow union members by her deliberate indifference.

49. Defendant Lauber, retaliated against Plaintiff's in violation of the Rehabilitation Act for plaintiff's written complaints in violation of Section 138 of N.Y. Corrections Law and well established law in protected conduct.

Defendant Lauber discriminated against the plaintiffs because of their race, color, national origin, creed, and social status, and religious beliefs by deliberate indifference and gross negligence.

50. Defendant Lauber, threatened Plaintiff West daily and harassed West in a racially motivated manner because plaintiff was not working fast enough to her liking in violation of the ADA ACT and Rehabilitation Act which discriminates against the disabled with deliberate indifference.

51. Defendant Lauber provided a discriminatory access for the other Innate Grievance Program Inmate Worker's prior to Plaintiff's election as Inmate Grievance Representatives, an discriminated against West and

Shariff as to the same access to stay ahead of the workload, et cetera. by deliberate indifference and gross negligence.

~~Defendant John Doe IGRC Sgt.'s 1-9~~  
52. Defendant John Doe IGRC Sgt.'s 1-9, assigned to the Inmate's Grievance Program by job bids through union contract with the State of New York and New York State Corrections Department were improperly trained, improperly supervised, and improperly selected for such a job assignment by deliberate indifference.

53. Defendant John Doe IGRC Sgt.'s discriminated against Plaintiffs West and Shariff and in a meeting of the minds with defendants Poole, Henrich, Lauber and others not fully known failed to follow their job duties pursuant to The IGRC Training Manual, Directive 4040 (1998 & 2003), Corrections Law, Section 138 by deliberate indifference.

54. Defendant John Doe IGRC Sgt.'s 1-9 conspired against the proper selection of IGRC Chairman Selection by a meeting of the minds with the defendants Henrich and Lauber, and Poole by deliberate indifference.

55. Defendants John Doe IGRC Sgt.'s 1-9 failed and conspired to undermine Directive 4040 (1998 & 2003), V. Procedures in a meeting of the minds with defendants Henrich, Lauber, and Poole by deliberate indifference with gross negligence.

56. Defendants John Doe IGRC Sgt.'s 1-9 in a meeting of the minds with defendants Poole, Henrich, and Lauber conspired against the inmate grievance representatives West and Shariff, where they intentionally failed to do Informal resolutions on a same equal basis as the disabled plaintiff's by deliberate indifference.

57. Defendants John Doe IGRC Sgt.'s discriminated against disabled plaintiff's West and Shariff in making them do their work assignments under duress, coercion and subtle rules and threats of being fired for no justifiable or legal penalogical reason by deliberate indifference.

58. Defendants John Doe IGRC Sgt.'s 1-9 conspired with defendants Henrich and Lauber to make discriminatory rules designed just for the disabled plaintiffs West and Shariff in violation of the Administrative Procedures Act that discriminates and were meant to set-up disabled Inmate Grievance Representatives by deliberate indifferences.

59. Defendants John Doe IGRC Sgt.'s 1-9 failed to sit for the SHU (Special Housing Unit) grievance hearings by deliberate indifference, which disabled plaintiff's West and Shariff were coerced to repeatedly do their jobs a number of times under fraudulent circumstances by their gross negligence.



60. Defendant John Doe IGRC Sgt.'s conspired in false reports against Plaintiff West with defendant's Henrich and Lauber in the falsification of N.Y.S. Department of Correctional services Official Records by their deliberate indifference in furtherance of a meeting of the minds.

61. Defendant David F. Napoli, Deputy Supt of Security at Five Points, was the hearing officer ~~for~~ allegedly false impeachment hearing of the Plaintiff West, was improperly trained, improperly supervised, and improperly selected for hearing by deliberate indifference by defendant Poole in a meeting of the minds ~~that was in furtherance of conspiracy.~~

62. Defendant was biased towards the plaintiff West at all relevant time during impeachment hearing, in which he denied plaintiff the due process of the law and equal protection of the law by discriminatory means by deliberate indifference and gross negligence, which the said discrimination and retaliation was because of my litigation against the DOCS, as pertains to Defendant Napoli.

63. Defendant Napoli denied plaintiff the right to witnesses at his impeachment hearing, which the reason for the denial was not for any type of security or justifiable reason. But, one in deliberate indifference and gross negligence.

64. Defendant Napoli failed to intentionally provide plaintiff a written form for the denial of all witnesses requested for plaintiff's impeachment hearing by defendant Napoli's deliberate indifference and gross negligence.

65. Defendant Napoli, with a meeting of the minds conspired with defendant Lauber on false confidential information at the plaintiff's impeachment hearing, which was off the record denied plaintiff West due process of the law and equal protection by deliberate indifference.

66. Defendant Napoli denied Plaintiff West the Assistance accorded to him under Title 7/ 7N.Y.C.R.R. and DOCS Directives by interfering with the assistance provide by Assistant by thwarting plaintiff's right to a fair hearing and impartial hearing officer by deliberate indifference and gross negligence.

67. Defendant Napoli illegally started plaintiff's West' impeachment hearing before the his Assistance had completed assistance to the plaintiff thwarting plaintiff's right to prepare a defense intentionally by interference and subverting plaintiff's right to due process of the law by deliberate indifference.

68. Defendant Napoli was biased and pre-determined Plaintiff's

West's guilt in advance of the hearing by denial of documentary evidence pertaining to the allegations alleged in the impeachment papers by defendant Henrich, which were relevant, and defendant arbitrarily denied such request capriciously with deliberate indifference and gross negligence.

69. Defendant Napoli in a meeting of the minds with defendant T. Poole (Supt.) who appointed him because they wanted a cover-up of the illegality of the corrupt grievance program, which Napoli would not go against his superior, which by his inaction joined into the conspiracy by deliberate indifference.

70. Defendant Napoli was told of the illegal, corrupt, and improper grievance procedures and allowed defendants Henrich, Lauber, and Sgt. Jeffrey Case to falsify their testimony at hearing in violation of DOCS Employee's Section 3.4 Falsification of Official Records written or oral by deliberate indifference.

71. Defendants Napoli disposition and evidence relied upon was one of a perfunctorily falsehood by deliberate indifference by deliberate indifference and gross negligence.

72. Defendant Napoli was sarcastic, disrespectful, and ridiculed the plaintiff during his questioning of defendants Henrich and Lauber, which he refused to allow them to answer questions by an abuse of discretion by deliberate indifference.

73. Defendant Donald Selsky, had personal knowledge before the facts of the impeachment hearing and arbitrarily denied plaintiff's appeal in violation of well established law by deliberate indifference

74. Defendant Selsky, knew or reasonably knew that Tier III Hearings were not supposed to start until the Assistance provided by the assistant was finished. But condoned the illegal conduct of Defendant Napoli against the plaintiff West, which thwarted right to a fair hearing and denied to prepare a defense.

75. Defendant Selsky, against well established law knew that inmates were allowed to call witnesses at their hearing unless there was a threat to security, which was not noted in the reason for denial of witnesses for plaintiff West, done by deliberate indifference.

76. Defendant Selsky condoned the defendant denial of witnesses to Plaintiff West at his impeachment hearing without the providance of the written reasons was deliberate indifference and gross negligence.

**B. GRANT OF COMPENSATORY DAMAGES IN THE FOLLOWING AMOUNT:**

1) One Million and Five Hundred Thousand Dollars (\$1,500,000) against defendant Glenn S. Goord;

2) One Million and Five Hundred Thousand Dollars (\$1, 500,000) against Defendant Stephan Bernardi;

3) One Million and Five Hundred Thousand Dollars (\$1, 500,000) against defendant Thomas Eagen;

4) One Million and Five Hundred Thousand Dollars (\$1,500,000) against defendant Jane Doe (Denis/Dennis (Regional Grievance Supervisor);

5. One Million and Five Hundred Thousand Dollars (\$1, 500,000) against defendant Janice Henrich;

6. One Million and Five Hundred Thousand Dollars (\$1, 500,000) against defendant Lisa Lauber;

7. One Million and Five Hundred Thousand Dollars (\$1, 500,000) against defendant John Doe IGRC Sgt.'s 1-9;

8. One Million and Five Hundred Thousand Dollars (\$1, 500, 000) against defendant David F. Napoli;

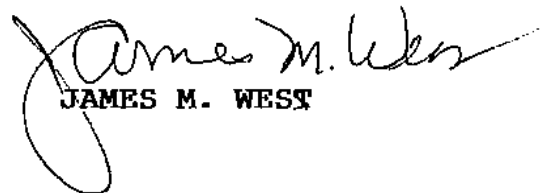
9. One Million and Five Hundred Thousand Dollars (\$1, 500, 000) against Donald Selsky

C. Grant punitive damages in the amount of Four Hundred Thousand Dollars each of the defendants.

D. Grant such other relief as the Court deems just and proper for entitlement to the plaintiffs.

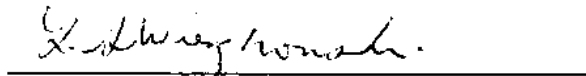
E. Grant Two Hundred Thousand Dollars (\$200,000) from each of the defendants herein of liability and the role for their actions, conduct, behavior or omissions that violated the plaintiffs' substantive rights.

RESPECTFULLY, submitted

  
JAMES M. WEST

SWORN TO BEFORE ME THIS

26th DAY OF May, 2005



NOTARY PUBLIC/COMMISSIONER OF DEEDS

L. STANISLAVA SWIESZKOWSKI  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 01SW6118019  
TOMPKINS CO.  
EXPIRES 2005

VERIFICATION

I, JAMES M. WEST, BEING DULY SWORN, ACCORDING TO LAW, DEPOSES  
AND SAYS, THE FOLLOWING UNDER PENALTY OF PERJURY BELOW:

1. That, I am one of the Plaintiffs in the within Civil Action Proceedings,  
and that, I have read and reread the foregoing Civil Complaint thereof.

That, the same is true to plaintiff's knowledge, except as to matters herein  
stated to be alleged on information and belief.

RESPECTFULLY,

  
JAMES M. WEST

  
ABDUL MUHAMMAD SHARIFF

  
DIVINE C. ALLAH

SWORN TO BEFORE ME THIS 26th

DAY OF May, 2005.

  
NOTARY PUBLIC/COMMISSIONER OF DEEDS

L. STANISLAVA SWIESZKOWSKI  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 01SW6118019  
TOMPKINS CO.  
EXPIRES 2005

STATE OF NEW YORK )

UNSWORN DECLARATION UNDER THE

COUNTY OF SENECA ) ss.:

PENALTY OF PERJURY

28 U.S.C., § 1746

AFFIDAVIT OF SERVICE BY MAIL

I, JAMES M. WEST, BEING DULY SWORN, ACCORDING TO LAW, DEPOSES AND SAYS, PURSUANT TO 28 UNITED STATES CODE ANNOTATED, § 1746, THAT THE FOLLOWING IS TRUE UNDER PENALTY OF PERJURY BELOW:

1. That, I have served the Clerk of the Court/Pro-Se Clerk, with a copy of the moving papers enclosed (Section 1983 Action, In Forma Pauperis, Affidavit of Service, and cover letter, with 58 page action.

2. That, on the 6th day of June, 2005, I have deposited said legal papers into the United States Mailbox Receptacle in 9-Blk. for mailing to the named parties.

3. That, once I have turned my legal mail over to prison officials and their subordinates, et cetera, that this mail is deemed mailed and received or / and filed upon receipt. This is under the prisoner's mailbox rule. See, Houston v. Lack. 108 S.Ct. 2379 (1988).

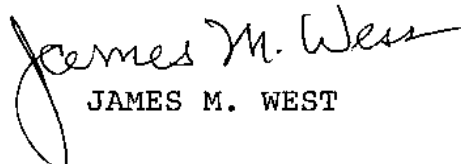
ADDRESSED TO:

CLERK OF THE COURT/PRO-SE CLERK  
(Mr. Charles S. Carra, Pro-Se Clerk)  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK  
U. S. COURTHOUSE  
68 Court Street  
Buffalo, New York 14202-3406

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and recollection.

Executed on June 6th, 2005.

RESPECTFULLY, SUBMITTED

  
JAMES M. WEST

STATE OF NEW YORK )

ss.:

SWORN DECLARATION

COUNTY OF SENECA )

AFFIDAVIT OF SERVICE BY MAIL

I, JAMES M. WEST, BEING DULY SWORN, ACCORDING TO LAW, DEPOSES AND SAYS, THAT PURSUANT TO THE APPLICABLE LAWS OF THE STATE OF NEW YORK UNDER PENALTY OF PERJURY, THAT I HAVE SERVED THE NAMED PARTY WITH A COPY OF THE PRISONER AUTHORIZATION TOO EN CUMBERRANCE MY INMATE ACCOUNT FOR FILING FEE'S FOR LITIGATION, ON THE 17th OF JUNE, 2005, BY FIRST CLASS MAIL, VIA THE UNITED STATES POSTAL SERVICE, WITH COPY OF SWORN DECLARATION ATTACHED, POSTAGE AFFIXED.

1. That, I have turned my legal mail over to prison officials and their agents by depositing said moving legal papers into the U.S. Mailbox in 9 Block on the above date in question.

2. That. once I have turned my legal mail over to the only persons I know That This mail is deemed mail and filed with the Court. Pursuant to The Prisoner's Mailbox Rule. Houston v. Lack., 108 S.Ct. 2379 (1988).

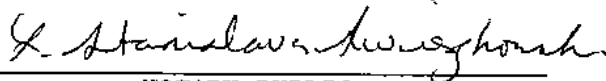
ADDRESSED:

Mr. Charles S. Cara, Esq.  
Pro-Se Clerk's Office  
UNITED STATES DISTRICT COURT  
Western District Of New York  
United States Courthouse  
68 Court Street  
Buffalo, New York 14202

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and recollection.

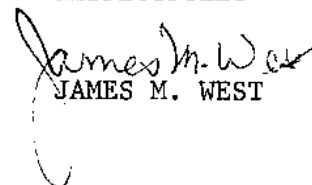
SWORN TO BEFORE ME THIS 17th

DAY OF JUNE, 2005.



NOTARY PUBLIC

RESPECTFULLY

  
JAMES M. WEST

L. STANISLAVA SWIESZKOWSKI  
NOTARY PUBLIC STATE OF NEW YORK  
NO.01SW6118019  
TOMPKINS CO.  
EXPIRES 2008